

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3635 OF 2013

The State of Maharashtra,
Through Police Station Purna,
Tq-Purna, Dist-Parbhani.

...APPLICANT
(Ori. Complainant)

VERSUS

Keshav s/o Haribhau Parve,
Age-32 years, Occu:Labourer,
R/o-Gour, Tq-Purna, Dist-Parbhani.

...RESPONDENT
(Ori. Accused)

...
Mr.B.L. Dhas, A.P.P. for Applicant.
...

CORAM: A.I.S. CHEEMA, J.

DATE : 23RD FEBRUARY, 2015

ORDER :

1. Heard learned A.P.P. for State. This is an Application for grant of leave against acquittal.

2. The learned A.P.P. submits that inspite

of evidence of accused abusing on the basis of caste and coming in the field and threatening to kill, the accused has been acquitted by the trial Court. According to learned A.P.P., there was case for conviction and leave needs to be granted.

3. The learned A.P.P. says that there was record that Gut No.572 was owned by father of the accused and Maroti maternal uncle of complainant was protected tenant and that there was civil dispute pending regarding the same. According to learned A.P.P. the complainant claimed that the Uncle had bequeathed the land to complainant.

4. It is short incident of 15th March 2001, when it is claimed that the complainant was in the field with labourers, and accused came there and started abusing on the basis of caste and threatened to kill. When witnesses came there, the accused ran away. Prosecution examined PW-2 and PW-3 as eye witnesses to support complainant PW-1.

Trial Court relying on certain rulings, found that in the present matter investigation was done by the Police Inspector which was not permissible as according to the provisions, Deputy Superintendent of Police should have investigated. The trial Court held that due to such investigation by Police Inspector, trial was vitiated. Trial Court also found that utterances on caste were not on the basis of untouchability and so Section 7(1) (d) of Protection of Civil Rights Act was also not attracted. Trial Court also referred to the evidence to find that complainant had not proved that he was in possession of the field concerned and that the prosecution has failed even to prove that Maroti, the uncle who was the protected tenant had passed away. Examining the evidence, the trial Court found that offence was not established.

5. Learned A.P.P. is unable to show from the evidence available that the reasonings could not

be supported. View taken is possible view and when acquittal is there, no interference is called for.

6. Criminal Application stands rejected.

[A.I.S.CHEEMA, J.]

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