

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.4185 OF 2013

The State of Maharashtra
through PSO, Parner Police
Station, Parner,
Dist.Ahmednagar

..Applicant

Versus

Shashikala Dhondiba Gagare,
Age 40 years, r/o. Palshi,
Tq.Parner, Dist.Ahmednagar

..Respondent

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Mr.S.R.Palnitkar, AGP for applicant - State
Mr.K.N.Lokhande, advocate for respondent

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CORAM : M.T. JOSHI, J.

DATE : MARCH 26, 2015

PER COURT :

Heard.

2] Aggrieved by acquittal of the respondent from the offences punishable under Sections 3(i)(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; Section 7(1) (d) of the Protection of Civil Rights Act, 1955; and Sections 323 and 504 of the Indian Penal Code,

the State wishes to file the appeal and therefore, present application for grant of leave to file appeal, is preferred.

3] The prosecution case, in short, is that, the present respondent - Shashikala is from Maratha community and during the relevant period, she was operating a fair price shop in the village. On 11th July, 2007, there was Gram Din Sabha and in the said assembly of all the villagers, the complainant - Shankar Salve made a grievance that the fair price shop of present respondent is opened once in the week and therefore, people of the village are not getting food-grains on ration timely. Said grievance was noted in the register of the Gramsabha. The Tahsildar, in the meantime, also came there to attend the meeting and thereafter, the respondent came to the meeting venue and thereat, she abused the complainant over his caste, which is specifically mentioned in the

FIR at Exhibit 21. On the basis of the same, investigation was carried out. The statements of other eye witnesses were recorded.

4] Learned Special Judge recorded oral evidence of seven witnesses out of which, PW 1 – Shankar Salve was the complainant and PWs 2 and 3 were the eye witnesses to the incident. The defence was that since the respondent belonged to a different political party than that of the Sarpanch and wife of the complainant was also a member of the Grampanchayat, with a conspiracy to cancel the license of the fair price shop of the respondent, plan was hatched and even the resolution was passed by the Grampanchayat cancelling the license of fair price shop of the respondent .

5] Learned Special Judge took into consideration the material on record and found that the case is

not proved beyond the reasonable doubt. Hence, the acquittal came to be recorded.

6] Learned APP submits that despite there were three eye witnesses, learned Special Judge has found fault with the prosecution case and therefore, leave to file the appeal may be granted.

7] Learned counsel for the respondent took me through the evidence and submits that learned Special Judge has rightly taken a reasonable and probable view of the matter.

8] On the basis of this material, in my view, there is no need to grant leave to file the appeal and the application deserves to be dismissed for the reasons to follow.

R E A S O N S

9] It is to be noted that the alleged incident has occurred on 11th July, 2007. As per the prosecution case, on the very same day, the complaint was filed by the complainant. In the said complaint, admittedly, though the facts of the incident were stated by him, there was no whisper that any insult was caused though, in the F.I.R. filed later on i.e. on 21st July, 2007, detailed utterance of alleged abusive words of the respondent were mentioned. Further, though the Gramsevak, PW 5, has deposed that the Tahsildar was present at the time of the occurrence, the Sarpanch admitted that the Tahsildar was not present at the time of the meeting since beginning and he has taken a wrong note in the minutes of meeting about presence of the Tahsildar. He further admitted that the complainant had not made any grievance against the respondent/accused regarding the said

incident. Further, his name and signature, admittedly, do not find place in the minutes of the said meeting. The political rivalry in the village was taken into consideration by learned Special Judge. The delay in filing the F.I.R. was also taken into consideration by the learned Special Judge.

10] In my view, as a reasonable and probable view has been taken by learned Special Judge, grant of leave to file appeal would be, ultimately, an exercise of futility.

11] Hence, leave to file the appeal is refused. The application is accordingly rejected.

[M.T. JOSHI, J.]