

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4304 OF 2013

The State of Maharashtra ... APPLICANT

VERSUS

Shrinivas @ Gangadhar s/o Baliram Katte
and others ... RESPONDENTS

.....
Shri B.L. Dhas, A.P.P. for applicant/ State
Shri U.B. Bilolikar, Advocate for respondents No.1 to 12
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CORAM: A.I.S. CHEEMA, J.

DATED: 27th February, 2015.

ORAL ORDER :

1. Heard learned A.P.P. for the applicant/ State and learned counsel for respondents - original accused. Learned A.P.P. submits that, on 28.8.2008, at the autorickshaw stand of village Bannali, the incident took place. The complainant Shankar and accused No.1 Shrinivas both used to ply autorickshaw. On that day, there was quarrel between both of them due to claim of grabbing of passengers. According to learned A.P.P., in the said incident, the accused No.1 abused the

complainant on the basis of caste as mentioned in the private complaint which was filed on 16.3.2009. According to learned A.P.P., the complainant had, after the incident, reported the matter but his complaint was not accepted by police. The learned A.P.P. submits that, the complainant was supported by the evidence of P.W.2 Laxman and P.W.3 Gangadhar regarding the incident, but still the trial Court, for untenable reasons, acquitted the accused. Learned A.P.P. submits that, when the complainant had gone to file F.I.R. to the Police Station, the police threw the complaint at the mouth of complainant, regarding which P.W.4 Maroti was examined. Learned A.P.P. submits that, the acquittal was not correct and the same deserves to be interfered with.

2. Against this, learned counsel for respondents - accused has taken me through the reasonings recorded by the trial Court. The copies of evidence are available with the learned A.P.P. Learned counsel for respondents submitted that, the trial Court considered the facts as can be seen from para 6 of the judgment and trial Court found that the presence of P.W.2 Laxman and P.W.3 Gangadhar at the time of alleged giving of abuses, was doubtful. The trial Court considered the allegations of the complainant that, after the incident he went home and mob of 300 - 400 persons, gathered at his house and they were

also abusing on the basis of caste. According to the learned counsel, after considering the evidence, for which reasons have been recorded in para 6, as well as para 7 of the judgment, the trial Court has properly appreciated the evidence and taken a view that the witnesses could not be relied on. Learned counsel submitted that the complaint of the complainant was silent regarding the presence of P.W.2 Laxman and P.W.3 Gangadhar at the time of the incident. The trial Court considered that the presence of Babu Ibitwar and Maroti Pandire was nowhere mentioned in the complaint at the time of alleged incident of giving abuses and threats. Trial Court considered whether or not the evidence of these witnesses inspired confidence. Trial Court observed that the evidence of witness Laxman shows that he came to know about the quarrel subsequently. The trial Court reasoned that the evidence of Gangadhar Ibitwar and Maroti Pandire at the time of throwing of the alleged complaint at the mouth of complainant was not established. Learned counsel further submitted that the record shows that the complaint of the complainant was enquired into by Dy. S.P. Ambegaonkar and the Dy. S.P. did not find that there was material to support the complainant. It has been further argued by the learned counsel for respondents- accused that the trial Court noticed that the complainant had on earlier occasions also filed complaints and there were also instances where the complainant was himself

accused. The learned counsel submitted that, due to this, the trial Court did not rely on his testimony, which was not corroborated by independent and reliable witnesses. According to the learned counsel, the view taken by the trial Court is possible view and the leave may not be granted.

3. Looking to the submissions made by counsel for both sides and the reasons recorded by the trial Court, and the fact that the learned A.P.P. does not demonstrate that the reasons recorded are not borne out from the evidence, the view taken by the trial Court being possible view, no interference is called for. Criminal Application is rejected.

(A.I.S. CHEEMA, J.)

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