

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4237 OF 2015

The State of Maharashtra,
through Police Station,
Sillod (Gramin),
Tq. Sillod, Dist. Aurangabad ..APPLICANT

VERSUS

Kakarao Eknath Kalamb,
Age 41 years, Occ. Service,
R/o. Bhavan, Tq. Sillod,
Dist. Aurangabad ..RESPONDENT

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Mr.P.N.Kutti, APP for applicant - State
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CORAM : M.T. JOSHI, J.
DATE : DECEMBER 07, 2015

PER COURT :

Heard Mr.Kutti, learned APP for applicant -
State.

2] Aggrieved by acquittal of the respondent from
the offences punishable under Section 354 of
Indian Penal Code and Section 3(1)(xi) of the
Scheduled Castes and Scheduled Tribes (Prevention

of Atrocities) Act, in Sessions Case No.107 of 2013 by learned Addl. Sessions Judge, Aurangabad, the State wants to prefer an appeal and therefore, present application for grant of leave to file appeal, is filed.

3] In short, the prosecution case is that on 28th December, 2011 at village Bhavan, Tq. Sillod, Dist. Aurangabad, at about 10:00 a.m. to 10:30 a.m., present respondent had caught hand of the complainant/victim with a bad intention and scuffled with her. Earlier also, the respondent used to laugh at her. The complainant is working as Anganwadi Sevika since about 12 to 13 years. Her husband was died and she has a son and two daughters, out of which, one is married. Her son is taking education at Aurangabad. She belongs to "Mahar" community. To prove these facts, the complainant/victim was examined along with one Sunita, PW 3.

4] As the complainant/victim claimed that the incident had occurred on a road in a thickly populated area, there must have been independent witnesses to the incident. On the other hand, PW 3 – Sunita, who was examined as a sole eye witness on behalf of the prosecution, had animus against the present respondent as, earlier in an inquiry initiated against her by the Nayab Tahsildar in connection with her fare price shop, the respondent had given statement in the said enquiry. Further, so far as the complainant/victim herself is concerned, the complainant showed ignorance as to whether earlier the wife of the respondent along with other villagers had filed a complaint about distribution of khichadi in the Anganwadi by the complainant and the work was taken away by the authorities from the complainant/victim. In the circumstances, the respondent had examined defence witnesses, which proved this fact.

5] Perused the reasons forwarded by learned Addl. Sessions Judge, Aurangabad. Besides the facts stated supra, the learned Addl. Sessions Judge has also took into consideration that the respondent is a teacher and his wife is Deputy Sarpanch. Considering all these facts on record, learned Addl. Sessions Judge has extended benefit of reasonable doubt and acquitted the respondent.

6] Since a reasonable and probable view of the material on record is taken by the learned Addl. Sessions Judge, grant of leave to file an appeal would be an exercise in futility. In the circumstances, present application for grant of leave to file appeal is hereby rejected. Leave refused.

[M.T. JOSHI, J.]

kbp