

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4238 OF 2015

The State of Maharashtra,
Through Rajendra Pagar,
Sub Divisional Police Officer,
Sub-Division, Sangamner,
Tq. Sangamner, Dist. Ahmednagar

.. Applicant
(Orig. Complainant)

VERSUS

- 1] Madhukar Nivrutti Binnar,
Age 57 years, Occu.: Nil
- 2] Amit Madhukar Binnar,
Age 27 years, Occu.: Nil
- 3] Sanjay Madhukar Binnar,
Age 25 years, Occu.: Nil,

All R/o Kelirumhanwadi,
Tq. Akole, Dist. Ahmednagar

.. Respondents
(Orig. Accused)

Mr. P.N. Kutti, A.P.P. for the applicant/State

CORAM : M.T. JOSHI, J.

DATE : 04/12/2015

ORAL ORDER :

Heard Mr. Kutti, the learned A.P.P.

2. Aggrieved by the judgment and order of the
learned Special Judge (Assistant Sessions Judge),

Sangamner, dated 16/06/2015 in Sessions Case No. 2 of 2013, acquitting the respondents from the offences punishable under section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also under section 323, 504, 506 r/w. 34 of the Indian Penal Code, the State wants to prefer an appeal and, therefore, the present application for leave to file appeal is filed.

3. The prosecution case in nutshell is as under:-

That there was a Gramsabha of the village Kelirumhanwadi, Tq. Akole, Dist. Ahmednagar. In the said Gramsabha, when the complainant posed a question regarding the sub-standard work of Keleshwar protection wall, the present three respondents abused the complainant and insulted him over the caste, as detailed in the complaint. Respondent no.1 - Madhukar slapped on the mouth of the complainant while respondent nos.2 and 3 assaulted by fists and kicks in the stomach of the complainant.

. When witness Dattu came to rescue the complainant, respondent nos.1 and 2 also beat him and threatened with dire consequences. Therefore, the complaint came to be filed.

4. Before the learned Special Judge, Sangamner, the complainant – Umaji Mengal, witness – Dattu Binnar and PW3 – Shankar Karwar were examined to prove the incident.

. The judgment of the learned Special Judge would show that the complainant in his examination-in-chief did not depose, as to who has uttered the abuses on caste. Not only this, he merely deposed that the accused uttered the insulting words, as mentioned in the complaint.

. The testimony of these three witnesses would show that they were inconsistent on the fact, as to whether first the complainant was driven from the Gramsabha and, thereafter, the assault has occurred, or as to whether first there was assault and, thereafter, he (complainant) was dragged away from the meeting hall.

5. The learned A.P.P. submits that banking on the minor inconsistencies, the learned Special Judge has wrongly acquitted the respondents and, therefore, leave to file appeal may be granted.

6. Upon perusing the reasons forwarded by the learned Special Judge, Sangamner, it is clear that those are based on the testimony of these three witnesses. All of these

witnesses have admitted that they have long family and political enmity with the present respondents. No other independent witness was examined. Further, there were inconsistencies between their statements, as detailed supra. In the circumstances, the following order :-

7. The Application is hereby dismissed. Leave to file appeal is hereby refused.

[M.T. JOSHI]
JUDGE

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