

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4337 OF 2013

The State of Maharashtra
Through Police Station Officer,
Police Station Sillod City,
Sillod, Dist. Aurangabad

.. Applicant

Vs.

1] Shaikh Ahemad Shaikh Mohiyoddin
Age : 75 years, Occu.: Agri.

2] Shaikh Iqubal Shaikh Ahemad,
Age : 40 years, Occu.: Labour

3] Shaikh Hanif Shaikh Ahemad,
Age : 32 years, Occu.: Labour

All R/o in front of Vijay Talkies,
Sillod – Aurangabad Road, Sillod,
Dist. Aurangabad

4] Gausiya Begum w/o Sayyed Kabiruddin
Quadri, Age : 60 years, Occu.: Household,
R/o Sillod, Dist. Aurangabad
(Orig. Complainant)

.. Respondents

Mr. V.P. Kadam, A.P.P. for the applicant/State

Mr. S.J. Salunke, Advocate for the respondents

Respondent no.4 is added as per Courts order dated 27/8/2014
passed in Cri. Rev. Appln. 161/2013

CORAM : M.T. JOSHI, J.

DATE : 24/03/2015

ORAL ORDER :

1. Heard both sides.

2. Aggrieved by the recording of acquittal of the

present respondent from the offence punishable under section 447 and 506 of the Indian Penal Code, by the learned Judicial Magistrate First Class, Sillod vide judgment dated 30/05/2013, the present application seeking leave to file appeal is preferred.

3. The material would show that the complainant claimed ownership and possession over the disputed plot. According to her, she has even applied for measurement of the plot to the authorities and just within four months, the present respondents have encroached the suit plot by keeping certain construction material there like bricks, G.I. sheets and when the respondents were confronted, they criminally threatened her to cause her death and, therefore, the complaint came to be filed with the Police.

4. Before the learned Judicial Magistrate First Class, Sillod, the certified copy of the sale deed was placed. It was further found that the application made to the concerned authorities was not for measurement of the plot but for inclusion of the said plot in one another plot of city survey no. 459. It was further submitted that civil suit about the title is already

pending. In the circumstances, the respondents were acquitted.

5. Upon hearing both sides, in my view, a reasonable and probable view has been taken by the learned Judicial Magistrate First Class, Sillod. There is no evidence to show that the disputed plot was measured. Further, regarding the title and possession, a civil suit is already pending between the complainant and the respondents-accused. In that view of the matter, the following order:-

6. Criminal Application is hereby dismissed.
Leave refused.

[M.T. JOSHI]
JUDGE

arp/