

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.4933 OF 2013

The State of Maharashtra,
through Sub-Divisional Police
Officer, Shevgaon,
Dist. Ahmednagaer ..Applicant

Versus

Tukaram Padmarao @ Padmanath
and ors. ..Respondents

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Mr.V.P.Kadam, APP for applicant – State

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CORAM : M.T. JOSHI, J.

DATE : MARCH 23, 2015

PER COURT :

Heard.

2] Aggrieved by the judgment passed by learned Assistant Sessions Judge, Ahmednagar in Sessions Case No.227 of 2011, thereby acquitting the respondents of the offences punishable under Section 3(i)(x), 3(i)(iv), 3(i)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; and under Sections 323,

504, 506 read with 34 of Indian Penal Code, present application for leave to file the appeal, is preferred by the State.

3] The prosecution case is that present respondents had, allegedly, insulted the complainant over his caste, which is Mahar, while he was pruning branches of Babool tree. There was criminal intimidation to him and he was also beaten by stick causing him simple injuries. Therefore, the offence came to be registered.

4] Besides other witnesses, the prosecution relied over the testimony of three eye witnesses i.e. complainant, PW 2 - Devidas as well as PW 3 - Sharan. The documentary evidence regarding the caste of the complainant was also filed. The injuries were proved by the Medical officer PW 6 - Dr. Pandit. From the side of the complainant, documentary evidence regarding the religion of the

complaint was filed, which would show that he was a Christian.

. Upon appreciation of the evidence on record, learned Sessions Judge came to the conclusion that the offences are not proved beyond the reasonable doubt.

5] With the assistance of learned A.P.P. for applicant, I have gone through the entire evidence. The evidence would show that while the school leaving certificate of the father of the complainant and the death certificates of his two uncles would show that they belonged to 'Mahar' caste, the documents produced from the side of defence i.e. school leaving certificates of sister and another uncle and brother of the complainant, would show that they belong to Christian community. The school leaving certificate of the complainant was not filed. In

the circumstances, learned Sessions Judge came to the conclusion that the caste of the complainant was not proved beyond the reasonable doubt, as alleged by the prosecution.

6] As regards the simple injuries claimed to have been received by the complainant during the incident, it was found that the incident has, allegedly, occurred on 15th March, 2011 while, the F.I.R. was filed on 17th March, 2011. On the day of filing of the complaint, the complainant was examined by PW 6 – Dr.Pandit, who deposed that the age of the injuries was six hours. In the circumstances, learned Sessions disbelieved the case of causing of the injuries.

7] As regards the minor offences punishable under Section 504 and 506 of the Indian Penal Code about criminal intimidation to the complainant, it was found that the two relatives of the complainant

i.e. eye witnesses, did not depose about the same.
Therefore, acquittal came to be recorded.

8] It would, thus, show that a reasonable and probable view has been taken by learned Sessions Judge. In the circumstance, grant of leave to file the appeal would be an exercise of futility.

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

[M.T. JOSHI, J.]