

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO. 4935 OF 2013

The State of Maharashtra ..Applicant

Versus

Dhanaji Bhaskar Deshmukh
and others ..Respondents

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Mr.V.P. Kadam, A.P.P. for applicant

Mr.S.K. Doke, advocate for respondent nos.1 to 6

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CORAM : M.T. JOSHI, J.

DATE : APRIL 01, 2015

PER COURT :

Heard both sides.

2] Aggrieved by recording acquittal of the respondents from the offences punishable under section 147 read with 143 and sections 323, 504, 506 read with section 149 of Indian Penal Code and section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the State wants to prefer an appeal and

therefore, present application for leave to file the appeal is filed by the State.

3] According to the prosecution, on 4th January, 2011 at about 2.00 p.m., while the complainant and his relatives were carrying certain work of removing Chillari trees by J.C.B. machine, at that time, present respondents came there, and started abusing the complainant and his family members over their caste which is "Mahar". The specific sentences uttered by the respondents are given in the F.I.R. They assaulted the complainant by fist and kick blows and threatened him to kill. Certain eye witnesses intervened. In the circumstances, the offence came to be registered.

4] Learned Special Judge has acquitted all the respondents from the offences as, in the earlier complaint, there was no allegation of any insult over the caste while, in the subsequent complaint,

on the basis of which the crime was registered, specific sentences are imputed to the respondents as detailed in the complaint at Exhibit-33. The learned Special Judge has, therefore, rightly taken into consideration the contents of the F.I.R. Exhibit-32 and observed that Exhibit-33 is an afterthought document, though the Investigating Officer has accepted it as a complaint. Similar is the case regarding the statements of the eye witnesses recorded by the Investigating Officer during investigation. Taking into consideration the material on record, learned Special Judge has acquitted the respondents.

5] Upon hearing both sides, in my view, learned Special Judge has taken a reasonable and probable view of the matter. For the reasons as detailed supra, in the circumstances, leave to file appeal is hereby refused.

6] The application for grant of leave to file the appeal is hereby rejected.

[M.T. JOSHI, J.]

kbp