

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPEAL NO. 170 OF 2015
WITH
CRIMINAL APPLICATION NO. 5155 OF 2013**

The State of Maharashtra,
Through SHO Police Station
Bhada, Tq. Ausa, Dist. Latur.

...Applicant
(Ori. Complainant)

versus

1. Tulshiram S/o Madhukar Zadke,
Age : 34 years, Occu. Agril.,
2. Bhimrao @ Bhima S/o Dattu Zadke,
Age : 26 years, Occu. Agri.,
3. Rajabhau S/o Ramrao Mohite,
Age, 29 years, Occu. Agri.,
4. Dattu S/o Maruti Zadke,
Age: 50 years, Occu. Agri.,
5. Somnath S/o Mahipati Mohite,
Age 45 years, Occu. Agri.,

All R/o Kalmatha Tq. Ausa,
Dist. Latur.

...Respondents
(Ori. Accused)

.....
Mr. K.S. Patil, A.P.P. for Applicant-State
Mr. S.S. Panhale, Advocate for respondents No. 1 to 5
.....

CORAM : A.I.S. CHEEMA, J.

DATED : 9th MARCH, 2015

Order :-

1. Heard learned Additional Public Prosecutor for applicant - State and Advocate Mr. Panhale appearing for respondents No. 1 to 5 - original accused.

CRIMINAL APPEAL NO. 170 OF 2015

2. Considered Criminal Appeal No. 170 of 2015, which has been filed by the State for enhancement of sentence passed under Section 143 of the Indian Penal Code and under Section 323 read with Section 149 of the Indian Penal Code by trial Court, the appeal is **Admitted**.

CRIMINAL APPLICATION NO. 5155 OF 2013

3. As regards Criminal Application No. 5155 of 2013 learned Additional Public Prosecutor submits that there is evidence under the provisions of Scheduled Caste and Schedule Tribes (Prevention of Atrocities) Act and still the trial Court has acquitted the accused. Learned Additional Public Prosecutor submitted that trial Court for untenable reasons acquitted accused on this count.

. Learned counsel for respondents - original accused submitted that leave sought cannot be granted as according

to him the trial Court has given proper reasonings as offence under the provisions of Atrocities Act was not proved and there are contradictions and omissions regarding the words used.

. Considering the material available on record, there is arguable case. As such, leave is granted.

. Criminal Application No. 5155 of 2013 be converted into appeal.

. Appeal is **Admitted**.

. Paper-book be got prepared.

. Action under Sections 390 of the Code of Criminal Procedure be taken against respondents No. 1 to 5 - original accused in the trial Court and brief compliance report be called.

4. Mr. Panhale, learned counsel waives service for respondents No. 1 to 5 - original accused after admission of appeal, on grant of leave; as well as in the Criminal Appeal No. 170 of 2015.

(A.I.S. CHEEMA, J.)