

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6234 OF 2013

The State of Maharashtra
Through Dy.S.P. Rajendra Pagar,
Sangamner Division, Sangamner,
District Ahmednagar

.. Applicant
(Orig. Complainant)

VERSUS

- 1] Somnath Punja Godase,
Age : 42 years,
- 2] Santosh Gangadhar Godase,
Age : 25 years,
- 3] Namdeo Dattu Godase,
Age : 30 years,
- 4] Dnyandeo Dattu Godase,
Age : 26 years,
- 5] Sachin Baban Godase,
Age : 24 years,

All Resident of Pemgiri,
Tq. Sangamner, Dist. Ahmednagar

.. Respondents
(Orig. Accused)

Mr. V.P. Kadam, APP for the applicant/State
Mr. S.K. Shinde, Advocate for the respondents

CORAM : M.T. JOSHI, J.
DATE : 17/03/2015

ORAL ORDER :

1. Heard both sides.
2. The State is seeking leave to file appeal

against the order of acquittal recorded by the learned Additional Sessions Judge, Sangamner in Sessions Case no. 57 of 2011 dated 16/7/2013.

4. The prosecution allegations were that on 15/6/2011, the present respondents at about 8:30 am went by tractor from the road from nearby field of the complainant party. At that time, over the dispute of the road all of them started abusing the complainant party over caste as complainant and her family members belong to Mahar Caste. Upon confronting them, they started beating with fists and kicks and also threatened to take the life. In the circumstances, on the basis of the complaint, the offence came to be registered. The trial was held for the offences punishable under section 3(1)(v)(x)(xv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under section 447, 341, 323, 504, 506 r/w. 34 of the Indian Penal Code.

5. Before the learned Sessions Judge, in all six witnesses were examined. They included complainant i.e. P.W. 1 Sunita and her family members i.e. P.W.2 Sharda and P.W. 3 – Balasaheb and another eye witness. During

trial, however, it has become an admitted fact that there was a dispute regarding the way from the field. Therefore, the member of the respondent-accused party had already filed Rasta Case No. 13/2010 with Tahsildar. The Tahsildar has carried the spot inspection and thereafter the case was decided against the complainant party and their family members and it was declared that the complainant party shall not disturb the right of the respondent-accused persons to use that way. Further, even P.W. 6 – Dy.S.P. Pagar had admitted in cross-examination that behind all this incident, the reason was the dispute regarding the road.

. Further in the F.I.R. filed by P.W.1 Sunita, the allegations of insult over caste are conspicuous by absence.

6. Considering all these facts on record, the learned Additional Sessions Judge reasoned that the incident in fact has occurred because of the existence or non-existence of the road. No insult or humiliation to the members of the Scheduled Caste was involved. When the Tahsildar has directed for use of the road, there could not have been offence under section 447 etc.

of the Indian Penal Code and, therefore, by giving benefit of doubt, the respondents were acquitted.

7. Learned A.P.P. submits that the evidence clearly show that the members of the Scheduled Caste were insulted. Further, the certificate regarding caste was filed on record.

8. Upon hearing both sides, in my view, the learned Sessions Judge has taken a reasonable and probable view of the matter. Admittedly, the right of the road from the disputed side was granted to the respondent-accused by the Tahsildar. Thus, the respondents have undertaken the exercise under law to get their right of way confirmed. In that view of the matter, as reasonable and probable view is taken by the learned Sessions Judge, there is no need to grant leave to file the appeal. The application is therefore rejected.

[M.T. JOSHI]
JUDGE

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