

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6379 OF 2013

The State of Maharashtra
Through Police Station, Ahmedpur,
District : Latur

.. Appellant

Vs.

1] Shahajan S/o Mainuddin Shekh,
Age 40 years, Occu. Agriculture

2] Yusuf S/o Bashirsab Shaikh,
Age 36 years, Occu.: Agriculture

3] Kausarbee W/o Yusuf Shaikh,
Age 32 years, Occu.: household

4] Aamjadbee W/o Shahajan Shaikh,
Age 35 years, Occu.: household,

All R/o Uttar-Rui, Taluka
Ahmedpur, District : Latur

.. Respondents
(Orig. Accused)

Mrs. R.K. Ladda, A.P.P. for the appellant-State
Mr. R.P. Adgaonkar, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 07/09/2015

ORAL ORDER :

Heard both sides.

2. Aggrieved by the judgment and order dated
12/04/2013 passed in Spl. (Atro.) Case No. 02/2012
passed by the learned Additional Sessions Judge and

Special Judge, Ahmedpur, thereby acquitting the present respondents from the offences punishable under section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 r/w. 34 of the Indian Penal Code and also under section 323, 324, 504, 506 r/w. 34 of the Indian Penal Code, the State wants to file the appeal and, therefore, the present application for leave to file appeal.

3. The prosecution case in short would show that the complainant party is in possession of a gairan land bearing gat no.35 of village Rui (Uttar), Tq. Ahmedpur, Dist. Latur for a period of 18 years preceding the filing of the present complaint in July, 2011. Therefore, the dispute continued between them and the present four respondents.

. It is alleged that on 26/07/2011, the present respondents started the ploughing operation in the field with the help of a tractor. In the circumstances, P.W.6 alongwith her sister-in-law Ankita Gundile tried to question the respondents. In the said incident, all the present four respondents insulted both of them over their caste with the words, as reproduced in the FIR.

The complainant belongs to Matang community while the respondents belong to non scheduled caste or scheduled tribe community. In the said incident, they assaulted both these witnesses with stones and sticks and threatened to remove them from the village.

. In the circumstances, report came to be filed. Both the witnesses were medically examined and the chargesheet came to be filed.

4. The learned Additional Sessions Judge/Special Judge, Ahmedpur however acquitted all the respondents, as according to the learned Special Judge, there is variance between the evidence of these two witnesses. Their injuries as found by the Medical Officer does not match with the oral testimony given by them regarding the suffering of the injuries. Further, there is variance in the statement of these witnesses, as to actually which words were used during the incident. There were omissions regarding the sentences also. Lastly, it was found that merely the photocopy of the caste certificate is filed and the Officer, who had issued the certificate, is not examined. In the circumstances, the acquittal came to be recorded.

5. Learned A.P.P. Smt. Ladda submits that the injuries were found on the person of the injured witnesses. The photocopy of the caste certificate was on record. Since there was corroboration to the statements of two injured witnesses in the nature of the injuries, the learned Special Judge ought not to have acquitted the present respondents.

6. On the other hand, Mr. Adgaonkar, learned counsel for the respondents supports the reasoning of the learned Special Judge. He further submits that the reasonable and probable view of the material on record is taken by the learned Special Judge.

7. Upon hearing both sides, in my view, the learned Special Judge has considered all the material on record. The inconsistencies between the statements of the witnesses qua the respondents and qua the nature of the injuries is considered. Further, it was found that there is no document to show that the injured witnesses were in occupation of the Government land i.e. gairan land though they were claiming that they were occupying the same for 18 years. Further, the absence of the

valid document regarding the caste is also considered. The reasoning cannot be called as perverse one. In the circumstances, the following order:-

8. Leave to file appeal is hereby refused. Criminal Application is accordingly dismissed.

[M.T. JOSHI]
JUDGE

arp/