

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.9 OF 2015

The State of Maharashtra .. Applicant
Versus
Sopan Maruti Dadas & ors .. Respondents

Mrs. Anamika Malhotra, Advocate for the applicant.

CORAM : ABHAY M. THIPSAY, J.

DATED : 20th FEBRUARY 2015

PC. :

1 The respondents were prosecuted on the allegation of having committed offences punishable under section 3(1)(x) read with section 6 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, 7(1)(d) of the Protection of Civil Rights Act, and also in respect of offences punishable under sections 147 IPC, 148 IPC, 323 IPC, 428 IPC, 504 IPC, 506 of the IPC read with section 149 of the IPC. After holding a trial, the trial court acquitted them by giving benefit of doubt. The State of Maharashtra is aggrieved by the said acquittal, and is by the present application seeking leave to file an Appeal therefrom.

2 I have heard the learned APP in support of the application. With her assistance, I have gone through the impugned judgment and the depositions of the First Informant – PW no.1 and that of her husband Audhumbar More (PW 2), as were recorded during the trial.

3 The prosecution case was that the respondents who were 17 in numbers, had, at about 9.30 p.m on 14th May 2008, thrown stones on the tin sheets of the house of the First Informant, had abused the First Informant and her family, had beaten her son – Pramod, and had caused damage to the property of the First Informant and her family. The First Information Report came to be lodged at about 6.00 a.m on the next day.

4 The learned trial Judge entertained a doubt about the truth of the prosecution version mainly because he found it difficult to believe that in the night time, the First Informant could identify as many as 17 persons so as to be able to give their names in the First Information Report. A perusal of her evidence shows that she even described which of the respondents was holding what. Indeed, this creates some doubt about the truth of the version particularly because there appears to be political rivalry between the husband of the First Informant and one Sopan – respondent no.1.

5 The learned trial Judge also observed that there was no satisfactory evidence to show the caste of the accused persons (which would be necessary to rule out the possibility of they, or any of them, being member of a Scheduled Caste or Scheduled Tribe).

6 It also appears that as per the prosecution case itself, the alleged incident had been witnessed by a number of independent persons, but except the First Informant and her family members, no other independent witnesses were examined.

7 The doubt felt by the trial court about the truth of the prosecution case cannot be said to be unreasonable. The view of the matter as taken by the trial court, is a possible view. It would be, therefore, futile to grant leave to Appeal.

8 Leave refused.

9 Application is rejected.

(ABHAY M.THIPSAY, J)