

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.51 OF 2015

State of Maharashtra	..	Applicant
<i>-Versus-</i>		
Shankar Rangarao Nikam & Ors.	..	Respondents

Mr.A.R.Patil for applicant
None for respondents.

CORAM : A.R.JOSHI, J.

DATE : 9th JUNE 2015

P.C.

1] Heard learned APP for State – applicant/ appellant on this application for leave to appeal challenging the judgement and order of acquittal of the respondents, in the matter of offences punishable under section 545, 354, 323, 324, 336, 504 read with 34 IPC.

2] The impugned judgement and order was passed by J.M.F.C. Court No.6, Islampur on 16th January 2015.

3] Allegedly, there were three incidents against the respondent accused. First one was on 17th January 2012 at night in which the respondent accused No.1 entered the house of complainant woman by kicking open the door and he abused her in filthy language and manhandled her and outraged her modesty. When she raised shouts, he ran away. The complainant/ women narrated the incident to her husband who was not at home at the relevant time and on the next date, she narrated it to the office bearers of local Gram panchayat. According to her, the incident was not reported to the police on the say of said office bearers of the local Gram panchayat.

4] The second incident is of 30th November 2012, during which in the morning again the respondent – accused No.1 went to the house of the complainant and manhandled her and abused both of her children and assaulted them. This incident was reported to the police but police did not register any complaint and after censuring the accused, allowed him to go on warning.

5] The third incident is of 27th January 2013, in which all the respondents took part and during which the complainant woman

was fallen on the ground and accused Nos. 1 and 2 sat on her person and started inflicting blows on her with some weapon. When the children of the woman complainant tried to rescue her the respondent accused No.3 assaulted the daughter by means of stone due to which she sustained severe injuries and fell unconscious and was taken to the hospital.

6] The complainant then injured was also taken to hospital and was hospitalised for three days till 30th January 2013. Prior to that on 28th January 2013, husband of the complainant reported the matter to the police and the police lodged N.C. Complaint and did not take much cognisance. As such, lastly on 8th February 2013 the complainant went to the police station and lodged her F.I.R. And then the investigation started. The medical certificate of the complainant was taken during the trial and ten witnesses were examined.

7] What weighed with the trial court was the variance in the substantive evidence of the complainant and version she gave in her F.I.R and which was brought on record during her cross

examination. The trial court was also influenced by the variance in the substantive evidence of P.W.3 and 5 i.e. daughter and son of the complainant and this is on the aspect as to the assault on P.W.3 by the accused No.3 by means of stone and P.W. 3 felling unconscious. This variance prompted the court to doubt the case of the prosecution as to the actual assault on the complainant and also on her daughter. Even it is mentioned by the trial court regarding the variance in the substantive evidence of the husband of the complainant and his statement given to the police. These contradictions were brought on record during his cross examination and considering all these circumstances, the trial court disbelieved the case of the prosecution and acquitted the accused.

8] After hearing the arguments on behalf of State and going through the reasoning given by the trial court, it cannot be said that the trial court had committed an error or that the order of the trial court is of such a perverse nature so as to interfere with the same. The view taken by the trial court can be a possible in view of the material available and the contradictions brought on record.

9] In the result, there is nothing to entertain the present application for leave to file appeal and the same is accordingly dismissed and disposed of.

(A.R.JOSHI, J.)