

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.56 OF 2015

The State of Maharashtra

..Applicant

Versus

Dilip Shankar Mule

..Respondent

....

Mrs. P.P. Bhosale, APP, for the Applicant-State.

Mr. Dilip Shankar Mule, respondent present in-person.

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CORAM : A. R. JOSHI, J.

DATE : 25th JUNE, 2015

P.C.

1. Heard learned APP for the applicant-State. Also heard the respondent in person.

2. This is an application for leave to file appeal challenging the judgment and order of acquittal of the respondent from the offence punishable under Section 509 of IPC.

3. During the trial against respondent, the main substantive evidence of PW-1 and PW-2 was discussed by the trial Court. The trial Court held this substantive

evidence not sufficient to prove the charge for the offence punishable under Section 509 of IPC against the accused. The allegations against the accused were that on the evening at about 7:00 p.m. on 13.8.2012 when PW-2, one woman, was washing her clothes, the present respondent/accused uttered obscene words towards her and thereby committed an offence punishable under Section 509 of IPC. PW-2 lodged complaint with the police after about two and half hours. Thereafter investigation was started and spot panchnama was conducted. The trial Court disbelieved the substantive evidence of PW-1, who allegedly overheard said utterances of filthy language. The trial Court disbelieved his testimony on the ground that PW-1 and present respondent have longstanding enmity and there are pending litigations. Apparently both these persons are real brothers and fighting on account of the property bequeathed under the Will. This is told to the Court by the respondent in person today during the arguments.

4. The trial Court disbelieved the version of PW-2 on the ground that the FIR was lodged rather belatedly and according to the trial Court this is a mitigating circumstance to the prosecution. Considering these circumstances, in the opinion of this Court the view taken by the trial Court cannot be considered as perverse so as to interfere with the impugned judgment and order of acquittal. The reasoning given by the trial Court cannot be faulted with considering the effect of the substantive evidence and as such there is nothing to interfere with the impugned judgment and order of acquittal by allowing the State to prosecute further appeal challenging the acquittal of the respondent. Hence, present application for leave is dismissed and disposed of accordingly.

(A. R. JOSHI, J.)