

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.1096 OF 2012

The State of Maharashtra ... **Applicant**
V/s.
Vasant Shiva Patil & Ors. ... **Respondents**

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Mrs.S.V.Gajare, APP for the Applicant/State.

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CORAM : ABHAY M. THIPSAY J.

DATED : 9TH FEBRUARY, 2015

P.C.

1. By this application, the State of Maharashtra is seeking leave to appeal from the Judgment and Order dated 22/05/2012 passed by the Additional Sessions Judge, Kolhapur acquitting the respondents who were accused in Sessions Case No. 101 of 2008 before her, of offences punishable under Sections 143, 147, 341, 323, 504 and 506 read with Section 149 of the Indian Penal Code and Section 3(i)(x) read with Section 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and of an offence punishable under Section 7(1)(d) of the Protection of Civil Rights Act, 1955.

2. I have heard Mrs.S.V.Gajare, the learned Additional Public Prosecutor for the State. With her assistance, I have gone through the application and the annexures thereto, which include not only the impugned judgment, but also the depositions of the witnesses recorded during the trial.

3. The learned trial Judge doubted the truth of the prosecution case primarily for two reasons. She observed that the complaint had been made belatedly i.e. after two months from the last incident, which was the subject matter of the alleged offences. The learned Judge observed that there was inordinate delay in filing of the FIR. The second reason, which led the learned Additional Sessions Judge to doubt the truth of the prosecution version, was that the complaint had been filed after a departmental inquiry against the First Informant had been initiated.

4. The learned Judge also expressed a view that the alleged incident possibly could not be said to have taken place in public place, as it had taken place in the chamber of the accused No.1. The learned Judge also doubted, whether the First Informant was indeed present in the school on 08/04/2008 as she had already been transferred and relieved, by that date.

5. Though the entire reasoning of the learned Additional Sessions Judge may not be accepted as it is, in the ultimate analysis, it does not appear that the doubt about the truth of the prosecution case as felt by the learned trial Judge was unreasonable, or did not arise out of the evidence that was adduced during the trial.

6. It is well settled that while considering the question of granting leave to appeal against an order of acquittal, the principles on which interference with an order of acquittal can be justified, need to be kept in mind. It is well settled that if the view taken by the trial Court is a possible view of the matter, leave ought not to be granted.

7. In this case, since it appears that the view taken by the Magistrate is a possible view of the matter, grant of leave would be futile.

8. Leave refused.

9. The application is rejected.

(ABHAY M. THIPSAY J.)