IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.89 OF 2015

The State of Maharashtra ..Applicant
Versus
Bhairu Maruti Pasale
and others. ..Respondents

....

Mr. A.R. Patil, APP, for the Applicant-State.

....

CORAM : A. R. JOSHI, J.

DATE : 26th AUGUST, 2015

P.C.

1. Heard learned APP on the application for leave to file appeal challenging the acquittal of the respondents in the matter of offences punishable under Sections 324, 504 and 506 read with section 34 of IPC.

2. The impugned order of acquittal was passed by the J.M.F.C., Mohol on 9.4.2015. The case of the prosecution is that the complainant woman was initially assaulted on the evening of 31.10.2008 by one of the accused and thereafter she came home and narrated the incident to her son. By that time, one of the accused i.e. original accused No.1 came to her house and told

her son to come to the spot and to see as to what was done by the complainant regarding the boundary between the two agricultural fields. On this, the son of the complainant told accused No.1 that the situation can be seen on the next day morning. On the next day in the afternoon the complainant and her other relatives including her sister and her husband and husband of the sister were in the agriculture field doing some work. That time accused No.1 came there with some papers containing maps of the agricultural fields. That time other two co-accused came to the spot armed with sticks and all the three accused assaulted the complainant woman and other relatives by means of sticks. Thereafter a complaint was lodged with the police.

3. What weighed with the trial Court was the variance in the substantive evidence of PWs-1 to 3 and the medical evidence regarding the injuries sustained by PW-1 and her son PW-2. Also the trial Court came to the conclusion that presence of the prosecution witnesses being PW Nos.3, 4 and 6 was unnatural and as such their testimony was disbelieved as it was not supporting the case of the complainant. Also it was observed by

the trial Court that no independent witnesses were examined by the prosecution. The trial Court disbelieved the case of the prosecution as to assault on the complainant and other relatives at the hands of the accused persons and as such acquitted the accused of the offences charged.

4. Considering the substantive evidence of the prosecution witnesses and considering variance between the medical evidence and the evidence of PW Nos.1 to 3, in the opinion of this Court the reasoning given by the trial Court is acceptable and there is nothing to entertain a doubt that the trial Court had committed an error in appreciating the evidence on record. The view taken by the trial Court is also probable and there is nothing to come to a different conclusion by allowing the State to prefer an appeal challenging the acquittal. In the result, there is no substance in the present application for leave to file appeal and the same is accordingly dismissed and disposed of.

(A. R. JOSHI, J.)

Deshmane (PS)