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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 92 of 2015.

The State of Maharashtra

..Applicant.

Vs

Harun Hasanmiya Tikale & Ors

..Respondents.

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

None for the Respondents.

CORAM : A.R.JOSHI, J

DATE : 29th September, 2015

PC. :

1) Heard learned APP for the State on this application for leave to file appeal challenging the acquittal of the respondents / original accused Nos. 1 to 6 in the matter of offences punishable under sections 143, 323, 324, 427, 504, 506, 509 read with section 149 of IPC. The impugned judgment and order dated 11th May, 2015 was passed by the learned J.M.F.C, Dapoli, District Ratnagiri.

2) The case of the prosecution, as placed before the trial Court by the prosecution witnesses was that on 13th June, 2009

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at about 11:45 a.m. all the accused persons / respondents gathered in the open public place near S.T. Bus stand and abused the first informant, his wife and his sister-in-law in filthy language and also assaulted them by means of wooden stumps and also manhandled them and torned their clothes and threatened them of dire consequences.

3) What weighed with the trial Court was non-examination of the independent witnesses though allegedly the incident occurred on broad day light in an open public place near the S.T. bus stand and where there is a police out-post as admitted by Investigating Officer PW no.7. Also the trial Court analyzed the substantive evidence of PW no.1, 3 and 5 i.e. the first informant PW no.1, his wife PW no.3 and his sister-in-law PW no.5. The Trial Court held testimonies not convincing for the reason that they were the interested witnesses and apart from them there was no independent witness. The Trial Court also held that there was prior enmity between the parties and further concluded that false implication could not be over ruled. The Trial Court also discussed the substantive evidence of PW no.6 Dr Bhosale who identified the signature of the another

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attending doctor who had occasion to witness injuries sustained by P.W. no. no.1, the first informant. The trial Court also disbelieved the evidence given by the witnesses PW nos. 1, 3 and 5 on the ground that there were interse contradictions in their substantive evidence, inasmuch as assault on PW nos. 3 and 5.

4) Considering the effect of the substantive evidence of the prosecution witnesses, in the opinion of this Court, there is nothing in the present case to re-agitate the matter by allowing the State to challenge the order of acquittal by way of appeal.

5) In the result, present application for leave to file appeal is dismissed and accordingly disposed of.

(A.R.JOSHI, J.)

CERTIFICATE:-

*Certified to be true and correct copy of the original
signed order.*