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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION (ALP) No. 402 of 2015.

Mrs Alka Vinayak Jangam ..Applicant.

Versus

Vrushali Namdev Sawant and others ..Respondents.

Mr Kalpesh Patil, Advocate for the Applicant.

Mrs Anamika Malhotra, APP for the State.

Mr Rohan Barge for respondent nos. 1 to 4, 6 and 7.

CORAM : A.R.JOSHI,J

DATE : 2nd September,2015.

PC. :

1) Heard rival submissions on this application for leave to file appeal challenging the acquittal of the respondents in the matter of offences punishable under section 143, 147, 149, 323 read with section 34 of IPC.

2) Private complaint was lodged on 7th July, 2004 on the alleged incident of assault and man handling of the complainant in the afternoon at about 3:30 p.m. on 3rd July,2004. According to the present applicant/ original private complainant, the incident happened at her tailoring shop. That time, the respondents-accused came in her shop and abused her and dragged her outside on the road by pulling her hair. She was manhandled and also abused. Some of the respondents-accused pushed her on the counter of her tailoring shop

thereby causing some minor abrasions on her wrist and hand. After the incident the respondents left the place. The present applicant/complainant, then, went to the police station. But according to her, only NC complaint was registered by the police and no any offence was registered for action to be taken against the respondents. Thereafter, she was sent for medical examination and she took treatment in the dispensary of Dr Vasant PW no.2. According to the evidence of PW no.2, the injuries were of minor nature and were abrasions and could also be possible by broken bangles or falling the person on a hard and blunt object. Dr Vasant P.W no.2 further mentioned that the said complainant was treated by him at about 7:20 p.m.

3) During the trial, three witnesses were examined on behalf of the complainant. PW no.1 is the applicant, PW no.3 is her son. Apparently, the evidence of both these witnesses is consistent with each other so far as the allegations against the respondents-accused. It is also a factual position that there was earlier dispute between the parties and there was some criminal case against the present applicant lodged by the respondents and in the said case some of the respondents were also witnesses. Said case was regarding defrauding the amount of Rs. 2 lakhs and odd by the present applicant. Apparently, this admission by

PW nos. 1 and 3 prompted the trial Court to disbelieve the story of assault and rioting allegedly committed in the afternoon of 30th June, 2004. This is more so, when initially the police did not register any offence but registered only non-cognizable complaint. Moreover, the complainant / present applicant had herself accepted that though allegedly the clothes from her tailoring shop were torn and there was some destruction, she did not mention so when she narrated the incidence to the police. Also what weighed with the trial Court was no independent evidence of any neighbouring shopkeeper or the pedestrian though allegedly the incident happened at about 3:30 p.m. on 30th June, 2004.

4) Considering the substantive evidence as discussed above, in the opinion of this Court, the view taken by the trial Court cannot be considered as of such a perverse nature, so as to be interfered with by allowing the complainant to re-agitate the matter in the appeal challenging the acquittal. As such it is not a case in which the leave to file appeal can be granted to the applicant and said application is accordingly dismissed and disposed of.

(A.R. JOSHI, J.)