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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 26 OF 2016

Smt. Pramila w/o Sunil Jagtap,
Age: 40 years, Occu: Household & Member
of Gram-Panchayat, Talegaon Dighe,
R/o. Talegaon Dighe, Tq. Sangamner,
District Ahmednagar

..APPLICANT

VERSUS

1. Smt. Suman w/o Shantaram Dighe,
Age: 41 years, Occu: Household,
R/o. Talegaon Dighe,
Tq. Sangamner,
District Ahmednagar

2. The State of Maharashtra
Through Police Inspector,
Sangamner Taluka Police Station,
Sangamner, Tq. Sangamner,
District Ahmednagar

..RESPONDENTS

Mr R. D. Bhalerao, Advocate for applicant;
Mr A. R. Kale, Addl. Public Prosecutor for respondent No. 2

CORAM : N.W. SAMBRE, J.

DATE : 6th April, 2016

ORAL ORDER :

The learned Assistant Sessions Judge, Sangamner, District Ahmednagar, by the judgment and order dated 9th December, 2015, passed in Sessions Case No. 16 of 2015, acquitted respondent No. 1 - accused for offences punishable under Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, under Sections 504 and 506 of the Indian Penal Code and under Section 232 of

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Code of Criminal Procedure, against which the present revision is preferred by the applicant-complainant.

2. Mr. Bhalerao, learned Counsel appearing on behalf of applicant-complainant would urge that the learned Court below has committed an error of law in improper appreciation of evidence and by recording incorrect findings.

3. So as to substantiate his contentions, he has invited attention of this Court to the evidence of the complainant - applicant hereinabove, so as to depict that the case, as was alleged in the first information report was duly proved and established. He would then submit that the witness, who has testified in support of the prosecution has rather given correct version, who was termed to be exaggerated one. According to him, this Court should show indulgence in the present matter.

4. It is required to be noted that, after the investigation in the matter was completed, the charge came to be framed on 20th September, 2008 as against the respondent No. 1. The accused pleaded not guilty and claimed to be tried. The defence of the accused is that she has been falsely involved in the case. In the prosecution story, it is narrated that on the date of the incident, present respondent No. 1 went to the office of Gram Panchayat for payment of water taxes. It is then claimed that, since the concerned clerk, who accepts water taxes, was not available, Gramsevak Sharad Vavikar asked accused to wait till arrival of concerned Clerk. In the

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meantime, it was noticed that there was meeting of Gram Panchayat and present accused enquired with Gramsevak as regards the status of installation of solar lamps in the area, where the accused was residing. In response to the said enquiry, Gramsevak stated that solar lamps were meant for area, where people from reserved category reside and not for area, where present accused is residing. In response to the same, it is claimed in the prosecution story that the accused uttered caste based insulting words against the complainant.

5. So as to establish prosecution story, the prosecution has examined in all five witnesses. P.W.1 – Pramila Jagtap at Exh. 21, P.W.2 Sharad Vavikar at Exh. 26, P.W.3 Changdeo Dighe at Exh. 27, P.W.4 Babasaheb Bhosale at Exh. 28 and P.W.5 Rakesh Ola at Exh. 29.

6. Complaint at Exh. 23 came to be proved by examining complainant and Exh. 30 – a pursis - closing evidence of prosecution came to be filed.

7. While evaluating the case of the prosecution, the learned Assistant Sessions Judge proceeded to consider and deal with the evidence of each of the witnesses. It is then noted by the learned Assistant Sessions Judge that P.W.1 - Pramila disclosed that on 11th November, 2014, during the meeting of the Gram Panchayat, Gramsevak, Sarpanch and Deputy Sarpanch were present in the meeting. It is then claimed that the Gramsevak Sharad Vavikar introduced issue as regards water scarcity and present accused came to the office offering payment of water taxes. It is

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upon her enquiry with the Gramsevak, she was informed that solar lamps were to be fitted in Harijan Vasti only and not in the area where accused is residing. She then uttered that there are certain reserved category people residing in area, where she resides.

8. The learned Court, then proceeded to analyse complaint. Exh. 22 is the handwritten complaint, whereas Exh. 23 is another complaint, which was scribed after taking assistance of the complainant by the police officials. The subjects as were discussed in the meeting, differ in both the complaints.

10. The learned trial Court, then noted contradiction in the complaints and proceeded further to evaluate the contents of Exhs. 22 and 23 - complaints. The independent witness P.W. 2 Sharad Vavikar, who is a Gramsevak, testified in support of the prosecution case and has narrated exact utterances made by present accused. The perusal of the said utterances and evidence, the Court below inferred that there was no motive attributed to accused and she first enquired issue with Gramsevak and then interacted with the complainant. The learned Court, then having noticed that the said witness has given different version in his evidence, as compared to the statement recorded under Section 161 of the Code of Criminal Procedure. The other witness P.W.3 - Changdeo Dighe has deposed in support of the prosecution case, however, according to him, it is the complainant herself, who started quarrel, though there was no interaction between accused and complainant. The evidence then was

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further analysed and the learned Court below, based on the same, has ordered acquittal of the accused.

11. It is also required to be noted that, there was unexplained delay in lodging first information report.

12. Once, it is not established by the prosecution that, there was a motive on the part of present respondent No. 1 to commit crime in question, as is apparent from the interaction between accused with that of the Gramsevak and the fact that exact utterances were not found to be in any way derogative, which invites provisions of offences under Section 3 (1) (x) of the Act, in my opinion, acquittal as is recorded by the learned Court below, does not call for interference in revisional jurisdiction. No perversity in appreciation of the evidence is noticed. The view taken by the learned trial Court is a possible view. As such, revision fails and stands rejected.

(N.W. SAMBRE, J.)

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