

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 204 OF 2015
(Gangadhar s/o Mariba Waghmare Vs. The State of
Maharashtra and others)

None for the appellant

Mr. N.T. Bhagat, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 08/02/2016

ORAL ORDER :

1. None present for the appellant. The record shows that nobody is appearing for the appellant since the date of the filing of the appeal. Heard learned A.P.P.

2. Aggrieved by the acquittal of the respondents NO. 2 to 19 from the offences punishable under section 143, 147, 148, 324, 323, 506 read with section 149 of the Indian Penal Code and under section 135 of the Bombay Police Act, by the learned Additional Sessions Judge, Kandhar, Link Court, Mukhed, vide order dated 3rd July, 2014, passed in Sessions Case No. 0800045/2006, the original complainant has filed the present appeal.

3. The reading of the impugned judgement would show that allegedly, on 13th march, 2002 at about 9.15 a.m., at village Bapshetwadi, present respondents No. 2 to 19 formed an unlawful assembly. At that time, complainant Gangadhar alongwith his brother Namdev and other relatives were cleaning the drain in front of their house. At that time, the respondents 2 to 19 came there with sticks, axe and katti in their hands. They challenged the prosecution witnesses as to why the were cleaning drain and they assaulted the complainant. In the incident, the head of the complainant was injured. The other prosecution witnesses were also injured. The respondents threatened all of them with dire consequences.

4. Before the learned trial court, in all six witnesses were examined, out of which PW1 is the complainant while PW2 to PW4 were claimed as eye witnesses. PW6 is the Medical Officer.

5. The learned trial court has taken into consideration the vast variances between the oral evidence of the complainant and the eye witnesses. It was found that the allegations in the complaint are

vague as no definite allegations against any specific assailants is made. Further, the blood stained clothes were not seized. The Medical Officer has not found any visible injury on PW4 Kerabai. It was undisputed that the scuffle had occurred between the two groups, out of which two counter cases were filed. In the situation, the learned trial court held that the prosecution has not proved its case beyond reasonable doubt.

6. The reading of the judgement as well as submissions of the learned A.P.P. would show that the learned trial court has taken into consideration all the material placed on record. A reasonable and probable view is taken by the learned trial court. I do not find any merit in the present appeal. The appeal, therefore, fails. Hence, the following order:-

7. The criminal appeal is dismissed. The bail bonds of the present respondents No. 2 to 19, if any, shall stand cancelled.

[M.T. JOSHI]
JUDGE