

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1931 OF 2015

The State of Maharashtra,
through Rajendra Pagar,
Sub Divisional Police Officer,
Sub Division, Sangamner,
Tq. Sangamner, Dist. Ahmednagar ..Applicant

Versus

Venkappa Munippa Dasari
Age 50 years, Occ. Nil
and seven others ..Respondents

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Mr.R.V.Dasalkar, advocate for applicant - State

Mr.V.Y.Bhide, advocate for respondents

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 12, 2016

PER COURT :

Heard both sides.

2] Aggrieved by the acquittal of the respondents from the offences punishable under Section 143, 147, 148, 295, 323, 427, 452, 504, 506 read with Section 149 of the Indian Penal Code; Section 3(i) (x) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act; Section 7(1)(d) of the Protection of the Civil Rights Act; and Section 135 of the Bombay Police Act, the State wants to prefer an appeal and therefore, present application for grant of leave to file the appeal, is filed.

3] The prosecution case, in short, is as under :-

4] That on 15th July, 2010 at about 6:30 p.m., the son of the complainant - Kalpana Gaikwad namely, Ajit, came to the house and informed that the respondents namely, Navnath Yernade and Govind Dasari, juvenile accused and other three named accused Mahesh Bhillade, Amol Jadhav and Yogesh Pogul had abused him by referring to his caste.

5] Thereafter, at about 8:45 p.m., PW 7 - Sanjay had brought the husband of the complainant namely, Pradeep, on his motorcycle. He told that the above

named juvenile offenders along with accused Mahesh Bhillade and accused Amol Jadhav with some other boys had beaten the complainant's husband with fists and kicks near a bakery. The complainant's husband fell on the ground due to giddiness. He was taken to the Government Hospital.

. Thereafter, the family members of the complainant returned to house at about 11:30 p.m. However, again at 12:00 p.m. in the night, present respondents/accused forcibly entered in the house of the complainant and beat the two sons of the complainant namely, Manoj and Ajit with fists and kicks. They uttered the sentences as detailed in the FIR, and insulted the complainant and her family members over their caste "Mahar". They also dragged the complainant and his daughter out of the house and pushed them in the adjacent land. Not only this, the respondents/accused threw away the household articles and broke the idols of Lord

Buddha and a poster containing portrait of Dr. Babasaheb Ambedkar. Neighbors of the complainant had rushed in the house of the complainant. However, the respondents threatened them and thereafter, went away.

6] Before learned Special Judge, in all twelve witnesses were examined. However, none of the independent witnesses referred in the F.I.R., was examined. The panchnama of the spot of occurrence could not be proved as the panch witnesses have turned hostile.

7] Further, neither any complaint was filed regarding the assault on the husband of the complainant nor there is any material regarding the same.

8] Learned Special Judge, therefore, held that no independent corroboration to the prosecution case,

was placed before him and acquitted the respondents/accused.

9] Upon hearing both sides, in my view, the findings of learned Special Judge are based on the material on record. The view taken by him, therefore, cannot be called as improbable and unreasonable. In the circumstances, grant of leave to file the appeal, would be an exercise in futility.

10] Present application for grant of leave to file appeal is, therefore, rejected. Leave refused.

[M.T. JOSHI, J.]