

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.341 OF 2016

Devidas s/o Shripati Salve,
Age-35 years, Occu:Agri.,
R/o-Telkudgaon, Tq-Newasa,
Dist-Ahmednagar.

...APPELLANT
(Orig. Complainant)

VERSUS

- 1) The State of Maharashtra,
Through P.I. Newasa Police Station,
Tq-Newasa, Dist-Ahmednagar,
- 2) Popat s/o Karbhari Kale,
Age-37 years, Occu:Agri.,
- 3) Suresh s/o Karbhari Kale,
Age-48 years, Occu:Labourer,
- 4) Bhagchand s/o Nivrutti Kale,
Age-41 years, Occu:Labourer,
- 5) Karbhari s/o Ramchandra Kale,
Age-68 years, Occu:Labourer,
- 6) Ramesh s/o Laxman Kale,
Age-40 years, Occu:Labourer,
- 7) Nivrutti s/o Ramchandra Kale,
Age-62 years, Occu:Agri.,
- 8) Sanjay s/o Nivrutti Kale,
Age-34 years, Occu:Agri.,

9) Datatraya s/o Laxman Kale,
Age-48 years, Occu:Agri.,

All R/o- Telkudgaon, Tq-Newasa,
Dist-Ahmednagar.

...RESPONDENTS

(Resp. Nos.2 to 9 - Orig. Accused)

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Mr.Gajanan B. Kingre Advocate for Appellant.
Mr.K.S. Hoke Patil, A.P.P. for Respondent No.1.

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CORAM: A.I.S. CHEEMA, J.

DATE : 28TH JUNE, 2016

ORDER :

1. Heard learned counsel for the Appellant - original complainant and learned A.P.P. for State.

2. The learned counsel for the Appellant is submitting that the trial Court has wrongly acquitted the Respondent Nos. 2 to 9 - accused for offences punishable under Sections 504, 506 of the Indian Penal Code and under Section 3(i)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as well as Section 37(1)(3)

read with Section 135 of the Bombay Police Act. The counsel referred to the evidence of PW-1 Devidas Salve and PW-3 Shripati Salve to show that these witnesses did state about the abuses on caste and inspite of such evidence, the trial Court acquitted the accused persons. The learned counsel submitted that the Appeal should be admitted and the accused be convicted for these Sections also.

3. The accused have been convicted for offence under Sections 143, 147, 148, 324, 323 read with Section 149 of the Indian Penal Code. However, instead of passing sentence immediately, they have been released on probation.

4. Going through the material available and the reasonings recorded by the trial Court, what can be seen is that the trial Court did consider the evidence regarding abuses on the basis of caste to observe that the witnesses differed as to

the time when the alleged abuses were given, either before or after the assault took place. I have also gone through the oral evidence and find that it is quite vague, in the sense that it is simply stated that the accused came and abused on the basis of caste. The words used, have been specified. There are as many as 8 accused and the evidence on this count is clearly vague as to which accused stated what. The trial Court did not rely on such evidence and acquitted the accused. The trial Court also noticed that PW-1 Devidas Salve had filed yet another complaint on the basis of caste against one Arun Harde and on filing of such complaint, he had received Rs.30,000/- from Social Welfare Department.

5. As regards the offence under Section 504, 506 of the I.P.C., the trial Court found that there was no specific evidence. Now also no specific evidence on that count has been pointed out. As regards the offence under the provisions

of Bombay Police Act, the trial Court found that although it was alleged that accused were possessing prohibited arms, the alleged weapons were not seized and thus trial Court acquitted the accused on that count.

6. As present Appeal is against acquittal for some of the Sections, I do not find that the learned counsel for Appellant is able to state that acquittal is perverse or it is not based on evidence. For such reasons, I do not find that there are grounds to admit the Appeal against acquittal.

7. The admission of the Appeal is declined. The Appeal stands disposed of, accordingly.

[A.I.S.CHEEMA,J.]