

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4099 OF 2015

The State of Maharashtra
Through Police Station Udgir (City),
Udgir, Tal. Udgir,
District Latur ..Applicant

Versus

Sudhir Bhaurao Patil,
age : 27 years,
R/o.: Shivaji Society, Udgir,
and others ..Respondents

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Mr.A.R. Kale, A.P.P. for applicant/State

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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 read with Section 149 and Section 324 read
with 149 of the Indian Penal Code and Section 3(i)
(x) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, in Special Case (Atro) No.03 of 2006 by learned Additional Sessions Judge, Udgir, the State wants to prefer an appeal and therefore, present application for grant of leave to file the appeal, is filed.

3] Perused the reasons forwarded by learned Additional Sessions Judge so also the record.

4] The prosecution case, in short, is as under:

. That, on 16th April, 2005, a programme was arranged on the eve of Dr.Babasaheb Ambedkar Jayanti in the public library of Shyamlal School, Udgir. Complainant - Balaji Sonkamble, therefore, went outside to receive the guests and to purchase garlands. When he came to Shivaji Chowk, one Arjun, respondent no.1-Sudhir Patil, respondent no.2 - Pramod Kendre, respondent no.13-Baburao Navtakke and other 10 to 11 unknown persons came there. They abused the complainant over his caste "Mahar". They assaulted the complainant by kicks,

fists and stones. The "Sanstha-chalak" was in a jeep, which was behind the complainant. The Sanstha Chalak was also beaten. One B.S. Biradar, Balaji Biradar and Gurume Sir intervened. The assailants also assaulted them. The complainant sustained injuries to his left eye brow, right knee and other parts of his body. The crime was accordingly registered.

5] Before the learned Additional Sessions Judge, in all eight witnesses were examined. PW1 is complainant - Balaji Sonkamble. PW2 is the police Head Constable, who was on traffic duty on that day. Learned Additional Sessions Judge considered him as an independent witness. PW3-Sadavijay Arya was invited as the Chief Guest. PW4 - Madhushri was his wife. PW5 is Dr.Mahendrakar, who has examined the complainant. PW6 - Basavraaj Biradar was a teacher in the school, where the complainant was working as teacher. PW7 - Lahu Maruti Gade, is the car driver, who was carrying the "Sanstha-

chalak" and his wife. PW8 – Shri Bhalerao is the Investigating Officer.

6] During the cross-examination of the relevant witnesses, it has become an admitted fact that PW3 – Sadavijay Arya earlier was the President of the said Shyamlal Shikshan Sanstha. He was removed from the said post under the provisions of the Bombay Public Trusts Act. The said decision was confirmed upto the Supreme Court. Shaymlal Engineering College was run by said Sanstha. About 100 employees were working in the said institution. Said institution was, however, closed. The salary of some of the employees, however, was not paid for a longer period and therefore, during the relevant period, those employees were on hunger strike by raising Pandal for about six months prior to the alleged incident. The present respondents are some of those employees.

7] Admittedly, complainant – Balaji was promoted as in-charge Head Master in the school run by the said Trust. His brother's wife was also posted as a Teacher and his daughter had got admission for D.Ed. Course. In place of the Engineering College, the school was started and the respondents were agitating for their salary upon closure of the engineering college. Crime was registered regarding demolition of the Pandal by certain companion of the complainant including PW6 – Basavraj Biradar in which, the employees, who were on strike, were agitating.

8] Besides this, PW 2 – Police constable was silent as to whether any insulting remarks referring caste were made by any of the present respondents. PW4- Madhushri Arya deposed that none of the accused had voluntarily caused hurt to her, though the prosecution case shows that she had suffered injuries. It was the defence case that PW1

— complainant was one of the member of the mob who destroyed the Pandal of the employees who were on the strike and at that time, he must have received certain injuries. The Medical Officer was also not specific about the injuries noted by him.

9] As regards the injuries on the person of PW4-Madhushri Arya, the defence was that due to application of brake of the car suddenly, she has received the injuries. Her evidence also was to the effect that none of the respondents had voluntarily caused injuries to her.

10] Taking into consideration, all these facts on record, the learned Additional Sessions Judge has acquitted the present respondents.

11] Upon hearing learned A.P.P. for applicant-State and considering the material on record, in my view, the learned Additional Sessions Judge has

properly appreciated the evidence on record. The view forwarded by learned Additional Sessions Judge is a reasonable and probable view. In the circumstances, grant of leave to file an appeal would be an exercise in futility.

12] The present application is, therefore, rejected. Leave refused.

[M.T. JOSHI, J.]

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