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

CRIMINAL APPLICATION NO.4165 OF 2015

The State of Maharashtra,
Through, Rajendra Pagar,
Sub Divisional Police Officer,
Sub-Division, Sangamaner,
Tq. Sangamner, Dist. Ahmednagar. ..APPLICANT

VERSUS

1. Namdeo Damu Pawar,
Age: 55 years, Occ: Nil,
2. Bhimraj Damu Pawar,
Age: 50 years, Occ: Nil,
3. Ganesh Bhimraj Pawar,
Age: 20 years, Occ: Nil,
4. Sunil Bhimraj Pawar,
Age: 20 years, Occ: Nil,
5. Jalindar Namdeo Pawar,
Age: 32 years, Occ: Nil,
6. Nanda Bhimraj Pawar,
Age: 40 years, Occ: Nil,
7. Kadubai @ Draupadabai Namdeo
Pawar, Age: 50 years, Occ: Nil,

All R/o. Nilvande, Tq. Sangamner,
District Ahmednagar. ..RESPONDENTS

Mr N.T. Bhagat, Addl. Public Prosecutor for
applicant;
Mr R.K. Temkar, Advocate for respondents

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CORAM : N.W. SAMBRE, J.**DATE : 18th August, 2016****ORDER :**

Heard Mr. Bhagat, learned Addl. Public Prosecutor for the State.

2. This application is moved under Section 378(1) of the Code of Criminal Procedure seeking leave to file appeal against the judgment and order of acquittal delivered by learned Assistant Sessions Judge, Sangamner in Sessions Case No.75 of 2012 on 13th April, 2015.

3. The prosecution case as appears is, complainant Dnyandeo, who was assaulted by the accused persons on 4th September, 2012 in the back ground of differences on the ground of throwing garbage. It is also claimed that the complainant, who belongs to backward category was also humiliated in public view, resulted in to

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registration of crime for an offence punishable under Sections 143, 147, 148, 324, 323, 504, 506, 354 read with 149 of the Indian Penal Code with Sections 3(1)(ii), 3(1)(x), 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and also under Section 7(1)(d) of the Protection of Civil Rights Act.

4. In support of prosecution, after the charge was framed on 19th November, 2013 for the above referred offences, complainant PW-1 Dnyandeo Avhad was examined at Exhibit-68, PW-2 Anita Avhad at Exhibit-70, PW-3 Vikas Dixit at Exhibit-72, PW-4 Gorak Raut at Exhibit-73, PW-5 Yadav Pawar at Exhibit-74, PW-6 Indubai Avhad at Exhibit 78, PW-7 Satish Valave at Exhibit-89, PW-8 Madhukar Dadar at Exhibit-91, PW-9 Balasaheb Jadhav at Exhibit-92, Pw-10 Babasaheb Bhosale at Exhibit-94, PW-11 Dr.Bhaskar Bhavar at Exhibit-99 and PW-12 Rajendra Pagar at Exhibit-102.

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5. While dealing with the evidence on record, it was noted from the evidence of respective witnesses that what has been stated by the complainant in the first information report is contrary to what has been deposed during trial before the Court. The manner and the order in which an offence has been committed, and role attributed to accused Namdeo and Bhimraj of assaulting the complainant, were not proved. It is not stated by the complainant in the first information report that accused Namdeo and Bhimraj assaulted him when he tried to interact with them by asking to stop throwing garbage at the place of storing firewood.

6. It is then required to be noted that the offence under the Atrocities Act is concerned, there is hardly any material to infer that the said has taken place in public view, particularly in the light of evidence recorded by the Court below in paragraph Nos. 40, 41 and 47 of the Judgment.

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7. In view thereof, no case for grant of leave to file the appeal is made out. As such, leave to file the appeal is refused.

(N.W. SAMBRE, J.)

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