

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

CRIMINAL APPLICATION NO. 4674 OF 2015

The State of Maharashtra

...Applicant

VERSUS

Haribhau @ Hari s/o Ambadas Pawar

...Respondent

.....
Smt. R.K.Ladda, A.P.P. for State/applicant
Shri S.S.Panale, advocate for sole respondent
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CORAM : INDIRA K.JAIN, J.

DATED : 11th APRIL, 2016

ORDER :

By this application, State of Maharashtra seeks leave to appeal against the judgment and order, dated 8.6.2015, passed by the learned Judicial Magistrate, First Class, Georai, District Beed in Regular Criminal Case No. 70 of 2012 acquitting respondent of the offences punishable under Sections 324, 323, 504 and 506 of Indian Penal Code.

2] Heard Smt. R.K.Ladda, learned A.P.P. for applicant/State and Shri S.S.Panale, learned counsel for sole respondent. Perused record.

3] It is the case of prosecution that complainant Manohar Gore was resident of Mondha Naka, Georai. On 20.11.2011 at about 7.00 p.m. informant was standing in front of his house. That time, accused abused him and inflicted blow with an iron rod on his head. He sustained bleeding injury. Incident was reported to police station. Crime was registered against accused. Spot panchanama was

drawn. Injured was referred to the Hospital. Statements of witnesses were recorded. On completing investigation, charge sheet was submitted to the court.

4] Charge of the alleged offences was explained to the accused. He pleaded not guilty and claimed to be tried. His defence was of total denial and false implication.

5] Prosecution examined in all six witnesses in support of its case. PW 2-Manohar Gore complainant, PW 3-Vimal wife of complainant and PW 4-Ashok son of informant are the star witnesses. They stated that at the relevant time accused abused and assaulted the informant with a stick. Informant has proved F.I.R. (Exh.24). It shows that blow was inflicted with an iron bar. As there was material inconsistency in the description of weapon, Trial Court found it fatal to the prosecution case.

6] As indicated above, incident occurred at 7.00 p.m. PW 1-Ram Nikam was an eye witness to the incident. He did not support the prosecution case. For want of independent corroboration Trial Court did not find it fit to place reliance on the testimonies of complainant, his wife and son particularly in view of material improvements elicited in their evidence.

7] Prosecution could not even prove scene of occurrence panchanama beyond doubt. According to panch witness he was not present at the time of panchanama. Considering the above drawbacks Trial Court held that prosecution has not proved the guilt of accused beyond reasonable doubt. The view taken by the Trial Court is a reasonable and possible view. This Court finds no reason to take a view different than taken by the Trial Court. Hence the following order.

ORDER

Criminal Application No. 4674 of 2015 stands dismissed.

[INDIRA K.JAIN, J.]

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