

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

CRIMINAL APPEAL NO.795 OF 2015

Samadhan Fakira Bhil ... APPELLANT

VERSUS

The State of Maharashtra & others ... RESPONDENTS

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Shri G.A. Nagori, Advocate for appellant
Shri P.N. Kutti, A.P.P. for State
Shri R.A. Jaiswal, Advocate holding for
Shri N.S. Ghanekar, Advocate for respondent Nos.2 to 5
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CORAM: A.I.S. CHEEMA, J.

DATED: 6th April, 2016.

ORAL ORDER :

1. Heard learned counsel for the appellant - original complainant, learned A.P.P. for State and Mr. Jaiswal, learned counsel appearing for respondent Nos.2 to 5. Perused record and reasons recorded by the trial Court. The trial court has considered the incident which is alleged to have taken place at about 10.00 p.m. of 17.4.2013 in the house of complainant,

which was continued further in front of the house. It is alleged that, the accused persons formed unlawful assembly and beat the complainant and accused caused damage in his house. Complainant was also abused on the basis of caste.

2. It is stated for the complainant that, although the trial Court exhibited the caste certificate, it wrongly ignored it on the basis that the caste certificate was not duly proved by examining the authorities who issued the caste certificate. The learned counsel submits that, the trial Court wrongly discarded the evidence of so many other witnesses who were examined in support of the complainant testifying that the accused persons were beating the complainant in front of his house and also abusing on the basis of caste. Thus, according to the counsel, acquittal needs to be interfered with.

3. Going through the material available on record and after hearing the learned counsel for the appellant, it can be seen that, although the observations of the trial Court seeking to call for the authority which issued the caste certificate after having exhibited the document, may be open for consideration, still that is only a small aspect of the matter.

4. Material aspects noticed from the judgment of the trial Court are the facts that, although the incident took place in the evening of 17.4.2013, in which allegedly other persons had gathered and the complainant happens to be Sarpanch of the village, still the F.I.R. was filed only on 18.4.2013 in the afternoon at 1.45 p.m. The trial Court has observed that, the F.I.R. did not explain the delay. The trial Court has further discussed the evidence of the various witnesses who were examined and referred to their cross-examination to find that the witnesses already had cross cases pending between them and the accused persons. It also noticed that, between the complainant and the accused also there was a case. In view of such observations, the trial Court appears to have searched for independent corroboration and acquitted the accused persons.

5. Looking to the fact that this is appeal against acquittal, I cannot interfere if the conclusion drawn by the trial Court is a possible view. Looking to the judgment of the trial Court and the record, the view taken by the trial Court being a possible view of the evidence, it would not be appropriate to interfere.

6. The admission of the appeal is declined. Appeal is dismissed.

(A.I.S. CHEEMA, J.)

fmp/cr795.15