

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

CRIMINAL APPLICATION NO. 5791 OF 2015

The State of Maharashtra

...Applicant

VERSUS

Datta @ Balu Shriram Kadam

...Respondent

.....
Shri S.N.Morampalle, A.P.P. for applicant/State
Shri Kuldeep S. Patil, advocate for respondent sole
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CORAM : INDIRA K.JAIN, J.

DATED : 21st APRIL, 2016

ORDER :

By this application, State of Maharashtra seeks leave to appeal against judgment and order, dated 29.7.2015, passed by the learned Additional Sessions Judge, Ahmedpur, District Latur in Special (Atrocity) Case No. 5 of 2014. By the said judgment and order, respondent was acquitted of the offences punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 7(1)(d) of the Protection of Civil Rights Act, 1955, and Sections 323, 504, 506 of the Indian Penal Code.

2] Heard Shri S.N.Morampalle, learned A.P.P. for the applicant/State and Shri Kuldeep S.Patil, learned counsel for respondent sole. Perused record.

3] It is the case of prosecution that on 5.7.2011 at around 7.30 a.m. complainant Ram Bhujang was fetching water on public water pump at village Mogha, Taluka Ahmedpur. The water pot with

complainant touched the water pot of accused. It is alleged that accused started beating complainant and abused him in filthy language on caste. He also threatened to kill him. The report of incident was lodged. Crime was registered. Investigation was conducted by PW 6-Chandrakant Khandvi, Deputy Superintendent of Police. On completing investigation charge sheet was submitted to the Court.

4] Charge of the alleged offence was explained to accused vide Exh.11. He pleaded not guilty and claimed to be tried. The defence of the accused was of total denial.

5] Prosecution examined in all six witnesses in support of its case. Considering evidence of prosecution witnesses, Trial Court came to the conclusion that guilt of the accused was not proved beyond reasonable doubt and acquitted the accused. Being aggrieved, instant application for leave to appeal has been preferred by State.

6] With the assistance of learned counsel for parties, this Court has gone through the evidence of witnesses examined by prosecution. PW 3-Ram Bhujang is complainant. He stated that on 5.7.2014 within 2-3 hours after incident he lodged report with police. First Information Report proved at Exh.27 shows that it was lodged on 6.7.2014 at 3.15 p.m. According to investigating officer, except Exh.27 no other complaint was lodged. If the evidence of complainant is believed, then Exh.27 cannot be said to be the F.I.R. lodged by him. Prosecution could not explain anomaly in the evidence of Ram Bhujang and F.I.R. Exh.27 which created doubt regarding reliability of prosecution case.

7] The other witnesses PW 2-Namdeo and PW 5-Navnath, who is panch are the close relatives of complainant. So far as PW 4-Laxman, an eye witness, is concerned, it appears from his cross-examination that he belongs to rival political group and had reason to take side of complainant.

8] Further it is significant to note that incident occurred at 7.30 a.m. According to complainant and investigating officer except complainant and the eye witnesses, no other person was present at the time of occurrence. This is unbelievable and unacceptable considering the time and spot of occurrence of incident. Since prosecution examined all the interested witnesses, Trial Court came to the conclusion that guilt is not proved.

9] The view taken by Trial Court is a reasonable and possible view and no perversity can be noticed from the impugned judgment and order. This Court, therefore, finds that prosecution has no case on merits. Hence the following order.

ORDER

Criminal Application No. 5791 of 2015 stands dismissed.

[INDIRA K.JAIN, J.]