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

CRIMINAL APPLICATION NO.6100 OF 2015

The State of Maharashtra,
Through Police Station Officer,
Police Station, Gangapur,
Dist. Ahmednagar. ..APPLICANT

VERSUS

Ramnarayan Motilal Navandar,
Age: 55 years, Occ: Business,
R/o. Near New Bus Stand,
Gangapur, Dist. Aurangabad. ..RESPONDENT

Mr C.V. Dharurkar, A.P.P. for applicant;
Mr R.K. Lakhotiya, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 6th OCTOBER, 2016

ORAL ORDER :

This application is by the prosecution for grant of leave to appeal against the order of acquittal recorded by learned Additional Sessions Judge, Vaijapur, District Aurangabad on 15th June, 2015 acquitting the respondent-accused for an offence punishable under Sections 504, 506 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention

(2)

of Atrocities) Act.

2. The facts as are necessary for deciding the present application are as under : -

Complainant Ashok (PW-1) was Councilor of Municipal Council, Gangapur. Present respondent-accused was working as Adatya/agent and was operating Adat-shop near new S.T. bus stand at Gangapur Produce Market Committee.

3. Complainant Ashok claimed that he belongs to *Matang* community and respondent-accused belongs to *Marwadi* caste. The caste of applicant since is notified as Scheduled Caste, when he was working as coolie in the market yard and also in the shop of accused, the amount of Rs.4660/- remained due from the accused person. Upon demand thereof, present respondent accused, in front of Dr. Devkar's house on 17th April, 2011 took out quarrel with the complainant and abused him in filthy language by uttering caste based insulting words and also

(3)

threatened to kill him.

4. The informant, as such, lodged complaint on 18th April, 2011 at 2-10 p.m. resulting into registration of crime in question being Crime No. 9 of 2011.

5. After the investigation, charge sheet came to be filed against the accused and charge came to be framed at Exhibit-5. In support of the prosecution case, the prosecution has examined witnesses i.e. complainant Ashok (PW-1) at Exhibit-10, Krishna Patil (PW-3) at Exhibit-15. Respondent accused examined DW-1 Bhausahab Bhosale at Exhibit-41.

6. Informant PW-1 Ashok in his deposition has stated that while working as coolie, amount of Rs.4660/- remained due against the accused and upon demand thereof, the accused uttered words resulting into registration of crime.

(4)

7. During his cross examination, about alleged arrears of amount of Rs.4660/-, he has given explanation that he used to get Rs.150/- to Rs.200/- as daily wages and used to work for 20 to 25 days in a month. He then stated that arrears were for a period of 6 to 7 months prior to lodging of the report. If the above referred evidence qua outstanding amount is analyzed, the evidence of complainant qua outstanding amount is required to be disbelieved. Apart from above, it is also brought on record that complainant Ashok and wife of one Sanjay Jadhav namely Savita are councilor. It is claimed by the complainant that even after becoming councilor, he used to continue to work as coolie. During cross examination, omission about working as coolie with hand cart at market yard and uttering of words 'Bhadya' is noticed. PW-3 Krishna stated that the incident occurred on 17th April, 2010 in front of Dr. Devkar's house when quarrel started between the complainant and accused. He stated that accused uttered insulting words and he intervened the quarrel. During his

(5)

cross examination, it is brought on record that he took the complainant to the police station, whereas the complainant himself stated that he alone went to the police station. There is also differences between the statement qua utterance of insulting words as stated in the statement under Section 161 of the Code of Criminal Procedure and examination in chief and cross examination by this witness. An omission is also recorded that he noticed the incident while he was proceeding from S.T. bus stand to his home, so also, about presence of other persons. The witness also was unable to state about the period for which amount of Rs.4660/- was due. It is also brought on record about topography of the incident and while proceeding to the spot from Ambedkar chowk, there was no occasion for proceeding to premises of bus stand.

8. PW-2 Kakasaheb is witness to the spot of incident i.e. Exhibit-14 and same was proved, however, said witness has admitted that he is working as driver on the vehicle of Sanjay Jadhav,

(6)

whose wife is also councilor with the complainant. His testimony, as such, was required to be disbelieved, as he appears to be a person set up by Sanjay Jadhav, whose wife Savita is councilor with the complainant and said Sanjay Jadhav is having dispute about immovable with the respondent-accused. From analysis of the evidence on record, it could be inferred that the prosecution has failed to prove the incident in question, particularly the allegation of atrocity against the complainant. There is unexplained delay of more than one day in lodging the first information report. The testimony of PW-1 and PW-3 is full of omissions and contradictions.

9. In view thereof, in my opinion, no case for grant of leave to file appeal is made out. As such, leave refused. Criminal Application stands dismissed.

(N.W. SAMBRE, J.)