

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

CRIMINAL APPEAL NO.940 OF 2015

Suresh s/o Mahajanrao Jondhale
Age 42 years, Occ. Service,
R/o Ramegaon, Taluka and
District Latur

... APPELLANT

VERSUS

1. The State of Maharashtra
(Copy to be served on A.P.P.,
High Court of Bombay,
Bench at Aurangabad)

2. Nandkumar s/o Sheshrao Magar,
Age 45 years, Occ. Service,
R/o Sinhagad Society,
Moti Nagar, Latur.

... RESPONDENTS

.....
Shri A.D. Wange, Advocate for appellant
Shri K.S. Hoke Patil, A.P.P. for respondent No.1
.....

CORAM: A.I.S. CHEEMA, J.

DATED: 1st July, 2016.

Date of reserving order : 29th June 2016.
Date of pronouncing order : 1st July, 2016.

ORDER :

1. The original complainant has filed this appeal against
acquittal after the respondent No.2 along with other accused

came to be acquitted by the Special Judge for offence, inter alia punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The present appeal is for admission. Learned counsel for the appellant submitted that, the appellant has deposed in the trial Court as P.W.1 and in support, examined other Professor P.W.3 Harshavardhan and P.W.4 Shivaji Gaderao. According to the counsel, those witnesses had supported the complainant regarding the fact that, after there was uproar in the official meeting dated 13.10.2012, and complainant had come out, the respondent - accused along with others followed him and abused him on the basis of caste. The learned counsel submitted that, the two other witnesses who supported the complainant, had in their police statements also referred to the abuses on the basis of caste, and the trial Court wrongly appreciated the evidence and acquitted the accused.

2. This being appeal against acquittal, I am concerned to see whether the judgment recorded by the trial Court is properly reasoned or it could be said to be perverse or not based on record. If the view taken by the trial Court of the evidence is reasonably possible, it would not be permissible for me to interfere in the acquittal. The learned counsel for the appellant

took me through the record. I have gone through the evidence of P.Ws.1, 3 and 4 other evidence and also the reasonings recorded by the trial Court. I have also considered the suspension order which was issued against the appellant on 13.10.2012 itself after the meeting regarding his behaviour in the course of the meeting.

3. The trial Court considered the evidence of P.W.1 complainant Suresh in detail as to how he had made grievance against the accused No.1 for not returning the Sports articles which had been issued to him couple of years back and regarding which he had filed complaint to the Principal. It appears that, earlier also there had been quarrel between the respondent - accused and the complainant regarding those Sports articles. The present incident relates to 13.10.2012 when it appears that there was meeting in the college and the same issue came to be raised in the said meeting. Complainant claimed that, at the time of the meeting, there was exchange of hot words between him and the accused. According to him, he had then gone out for drinking water and at that time the respondent and others followed him and the accused threatened him on the basis of caste. The trial Court considered all this evidence and the

complaint Exh.34. Trial Court discussed that, P.Ws.3 and 4 who had supported the complainant, were his colleagues and they had separate chambers where they used to sit. Trial Court found these witnesses making improvements in evidence. Trial Court discussed that there were also other members who were present in the meeting and still nobody else was examined. The Trial Court considered the fact that the suspension order issued against the complainant, dated 13.10.2012 referred to the fact that at the time of meeting the complainant had beaten and abused the accused. Trial Court found that, there was enmity between the respondent accused and the complainant and thus, it appears that, the trial Court did not believe the complainant as well as P.Ws.3 and 4. Trial Court found that the investigating officer has suppressed statements recorded of other witnesses and the investigation was partial. Trial Court observed that there was possibility of false complaint being filed looking to the facts of the matter.

4. Looking to the facts of this matter and the evidence which came on record, and the reasons recorded by the trial Court, the reasons recorded by Trial Court is a possible view of the evidence which had been brought on record. Only because

some other view can be taken will not be reason to interfere. As such, there are no sufficient grounds to admit the appeal against acquittal.

5. Admission of the appeal is declined. The appeal is dismissed.

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

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