

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 459 OF 1996

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| 1. Narasing Gurunath Patil, |) | |
| Age 57 years, (M.L.A), |) | |
| Resident of Belgaon. |) | |
| 2 Ramchandra Motiram Patil, |) | |
| Age 58 years, Resident of |) | |
| Shivanage, Tal. Chandgad. |) | |
| 3 Piraji Ramchandra Patil, |) | |
| Age 27 years, Resident of |) | |
| Tambulwadi, Tal. Chandgad. |) | |
| 4 Sakharam Abaso Desai, |) | |
| Age 46 years, Resident of |) | |
| Utsali, Tal. Chandgad. |) | |
| 5 Janaba Santu Ovulkar, |) | |
| Age 52 yrs. Resident of |) | |
| Turkewadi, Tal. Chandgad. |) | |
| 6 Kedari Yallappa Patil, |) | |
| Age 55 years, Resident of |) | |
| Dundage, Taluka Chandgad. |) | |
| 7 Gopal Santu Ovulkar, |) | |
| Age 39 years, R/o. Turkewadi, |) | |
| Taluka Chandgad. |) | |
| 8 Shankar Laxman Ovulkar, |) | |
| Age 28 years, Resident of |) | |
| Turkewadi, Taluka Chandgad. |) | ... Appellants. |

Versus

The State of Maharashtra.	... Respondent.
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Mr. Anant Vadgaonkar, advocate for appellants.

Mrs. A.A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : MARCH 3, 2016

JUDGMENT:

1 The appellants herein are convicted by the Special Judge, Kolhapur vide Judgment and Order dated 12/7/1996 in Special Case No. 44 of 1993. The appellant No. 1/accused No. 1 is convicted for an offence punishable under Section 7(1)(d) of the Protection of Civil Rights Act, 1955 and sentenced to suffer S.I. for one month and to pay fine of Rs. 100/- i.d. further S.I. for 7 days. The appellant No. 1/accused No. 1 is also convicted for the offence punishable under Section 506 of the Indian Penal Code and sentenced to S.I. for 7 days. Appellant No. 1/Accused No. 1 is acquitted of the offence punishable under Section 3(1)(x) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and of the offences punishable under Sections 147, 148, 323 read with Section 149 of IPC, 323 OF IPC, 324,337 r.w. 149 of I.P.C. 504 r.w. 149 of I.P.C. and

506 r.w. 149 of I.P.C. The appellant Nos. 2 to 5 and appellant Nos. 7, 8 and 10 are convicted for offence punishable under Section 323 of the Indian Penal Code and sentenced to suffer S.I. for 15 days each. The appellant Nos. 2 to 5 and appellant Nos. 7, 8 and 10 are acquitted of the offence punishable under Section 3(1)(x) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, 7(1) (d) of the Protection of Civil Rights Act, 1955 and of the offences punishable under Sections 147, 148, 323 read with Section 149 of IPC, 324, 337 r.w. 149 of I.P.C. 504, 506 r.w. 149 of I.P.C. and 506 of I.P.C. Hence, this appeal.

2 Such of the facts necessary for the decision of the appeal are as follows :

That the appellant No. 1 is the chairman of Daulat Co-operative Sugar Factory. The appellants happened to be the director of the sugar factory. On 8/1/1993 Annual General Body Meeting of the factory was to be held. At about 2 p.m. the meeting had commenced. By virtue of being Chairman of the sugar factory, the appellant No. 1

was presiding over the meeting. That the complainant Mahadev Satuppa Kamble had entered into the meeting hall. It is alleged that upon seeing the complainant, the accused No. 1 had questioned as how the complainant was allowed to enter into the hall and he had referred the caste of the complainant in prerogative manner. There was an altercation. It is alleged that the appellant No. 1 had exonerated other members to assault the complainant and on his instigation, the complainant was assaulted with kicks and fist blows. That he was threatened of dire consequences.

3 The complainant had then approached Chandgad Police Station and lodged the report. On the basis of the report filed by the complainant, Crime No. 4 of 1993 was registered against the accused for offence punishable under Section 147, 148, 149, 324, 323, 504, 337, 506 of the Indian Penal Code and 7(1)(d) of the Protection of Civil Rights Act, 3(1)(x) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Investigation was set in motion. It appears that the crime was investigated by the police

inspector. The case was registered as Special Case No. 44 of 1993. The prosecution examined as many as 12 witnesses to bring home the guilt of the accused.

4 P.W. 3 Mahadev Satappa Kamble happens to be the complainant. He has deposed before the Court that on 8/1/1993 about 3000 to 4000 people were present at the meeting. As soon as he entered into meeting hall, accused No. 1 had hurled abuses at him by referring to his caste and had instigated the mob to assault him. The other accused had assaulted him with fists and kick blows. It is elicited in the cross-examination that several cases are pending against the complainant. That there are political fraction in the cooperative societies. He has also admitted in the cross-examination that he has attended meeting upon receiving an intimation.

5 The prosecution has also examined independent witnesses as well as the police guarding the said meeting in order to see that the meeting is conducted in peaceful manner. That the independent

witness P.W. 8 is Shivaji Bhandari who was officiated as police head constable to Tilarinagar Police Station. He has deposed before the court that on 8/1/1993, General Body Meeting of Daulat Sugar Factory had commenced at about 1.30 p.m. At about 2 p.m. Chairman had started addresssing the meeting. Some members had entered into the meeting hall without signing the register. Therefore, the Chairman had asked them to register themselves and then enter into the hall. The complainant had entered into the hall without having registered. There was commotion in the hall. The chairman was addressing the meeting. But due to commotion, his address was inaudible.

6 It is apparent from the nature of the evidence adduced by the prosecution that the whole incident had occurred due to political recovery and political fractions within the said society. The appellants are convicted under Section 147, 148 of the Indian Penal Code. The learned Counsel for the appellants rightly submits that the appellants were members of the society and had attended General Body Meeting

and therefore, the same cannot be treated as an unlawful assembly and therefore, according to the learned Counsel, conviction under section 147, 148 of the Indian Penal Code deserves to be quashed and set aside.

7 It is pertinent to note that the appellants have been acquitted of the offence punishable under Section 3(1)(x) of the Scheduled Casts and the Scheduled Tribe (Prevention of Atrocities) Act, 1989. That the appellants are convicted for the offence punishable under Section 7(1)(d) of the Protection of Civil Rights Act, 1955 which contemplates as follows :

“Whoever insults or attempts to insult, on the ground of 'untouchability' a member of a Scheduled caste shall be punishable with imprisonment for a term not less than one month and not more than 6 months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

8 In the present case, it is apparent on the face of the record that the meeting was attended by more than 4000 people who were

members of the said cooperative society. The complainant had attempted to enter into the hall after the meeting had commenced. At that relevant time, the Chairman was giving his address to the members. It is clear that there was commotion and the complainant was being restrained from entering into the meeting the hall on account of his not having registered at the entrance and not because he belonged to a particular caste.

9 The Court cannot be oblivious of the fact that the wisdom has prevailed upon the complainant. That the complainant has filed an affidavit in the present appeal on 23/7/2013. The complainant has contended in the affidavit that since there was political disturbances between himself and appellant No. 1 Nursing Gurnath Patil, he had lodged the said complaint. That he had resolved disputes with the appellant No. 1 and is having cordial and friendly relations. It is true that the offence punishable under Section 7(1)(d) of the Protection of the Civil Rights Act is to be tried summarily as per section 15 of the said Act. That the minimum imprisonment contemplated for the

offence punishable under Section 7(1)(d) of the said Act is one month. It can be tried summarily. In the present case, the appellants who were charged with offence under Section 3(1)(x) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The case was tried by Special Judge. However, the learned Special Judge has sentenced the appellant to one month. That the very fact, the complainant has appeared before court and stated that he has no grievance against the appellant and that the lodging of the said complaint was a result of political rivalry. There is no reason to go into other aspects of the matter such as to whether the prosecution has proved its case beyond reasonable doubt or not. Taking into consideration of the hearing, the appeal deserves to be allowed.

10 Hence following order :

ORDER

(i) The Criminal Appeal is allowed.

- (ii) The Judgment and Order dated 12/71996 passed by the Special Judge, Kolhapur in Special Case No. 44/1993 convicting the appellants is hereby quashed and set aside.
- (iii) The appellants are acquitted of the charges.
- (iv) Fine amount if paid to be refunded.
- (v) The bail bond stands cancelled.

11 The Criminal Appeal is disposed off accordingly.

(SMT. SADHANA S. JADHAV,J)