

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.134 OF 2015

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

APPASAHEB BHIMRAO POL)...RESPONDENT

Smt.PP.Bhosale, APP for the Applicant - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 29th JANUARY 2016.

P.C. :

1 The respondent was prosecuted on the allegation that he had committed an offence punishable under Section 3(1)(x) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, and Section 506 of the Indian Penal Code (IPC). The Additional Sessions Judge, Vaduj, after holding a trial, found him not guilty and acquitted him. The State of Maharashtra is aggrieved by the said order of acquittal, and is, by the present application, seeking leave to file an appeal therefrom.

2 I have heard Smt.P.P.Bhosale, the learned APP for the State, in support of the application. I have gone through the impugned judgment. I have also gone through the notes of evidence recorded during the trial, a copy of which is annexed to the application.

3 The First Informant is a Retired Deputy Collector. He had entered into a transaction of sale of land with the respondent. He had received earnest money from the respondent, but could not complete the transaction, and therefore, wanted to return the earnest money with interest. He, therefore, went to the house of the respondent on 18th May 2010 and offered to pay the earnest money with interest. The amount offered was Rs.4 Lac, but the respondent allegedly wanted an amount of Rs.8 Lac. When the complainant showed his inability to pay such high amount, the respondent allegedly abused him by his caste and also threatened to kill him.

4 On 27th May 2010, the complainant received a telephone call from one Madne and this Madne told him that he had decided to make construction on the land purchased from the complainant, but the respondent was threatening him and preventing him from making construction. When the complainant and his nephew Deepak (PW3) went there, the respondent was present there. He was holding a stick. This time also, the respondent abused the complainant by referring to his caste and further threatened that he would grab the land of the complainant.

5 The learned Additional Sessions Judge did not find the evidence adduced by the prosecution reliable. He observed that there was, admittedly, some previous litigation between the parties. The learned Additional Sessions Judge also noted that, though the incidents in question had allegedly taken place on 18th May 2010 and 27th May 2010, the complainant reported the matter to the police only on 3rd June 2010, and that, there had

been two different explanations for the delay, which both, in the opinion of the Additional Sessions Judge, were not convincing. The learned Additional Sessions Judge also noted the fact that a special civil suit had been filed by the wife of the respondent against the complainant in the year 2007 which was pending. A criminal complaint had also been filed by the respondent against the complainant herein, which was also pending. The learned Additional Sessions Judge also noted that, though independent witnesses could have been made available, they were not examined, and that the version of the complainant and his witnesses was not uniform.

6 Considering all these aspects of the matter, the learned Additional Sessions Judge entertained a doubt of the truth of the prosecution case and acquitted the respondent.

7 The doubt felt by the learned Additional Sessions Judge about the truth of the prosecution case was reasonable. It indeed, arose from the evidence that was adduced. In any case,

the view of the matter, as taken by the learned Additional Sessions Judge, is certainly a *possible view*. It is well settled that when such is the case, interference with the order of acquittal would not be justified.

8 Grant of leave, therefore, would be futile.

9 Leave refused.

10 The application is rejected.

(ABHAY M. THIPSAY, J.)