

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

CRIMINAL APPEAL NO.196 OF 2017

Ramesh s/o. Bandu Wagh,
Age : 55 years, Occ. Service,
r/o. Pishor, Tq. Kannad,
Dist. Aurangabad ..Appellant

Vs.

Kamlakar s/o. Rajaram Nawale,
Age : 73 years,
Occ. Retired Teacher,
and others ..Respondents

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Mr.S.B.Solanke, Advocate for Appellants
Mr.M.M.Parghane, Advocate for respondent nos.1 to 4
Mr.G.O.Wattamwar, APP for respondent no.5

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**CORAM : SANGITRAO S. PATIL, J.
DATE : AUGUST 28, 2017**

PER COURT :

The appellant (original informant) has challenged the judgment and order dated 01.04.2017 passed in Sessions Case No.125 of 2014 by the learned Special Judge and 6th Addl. Sessions Judge, Aurangabad, whereby respondent nos.1 to 4 – original accused have been acquitted of the offences punishable under Sections 3(1)(x) of the Scheduled

Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 506 read with Section 34 of the Indian Penal Code.

2. Heard the learned Counsel for the appellant and that of respondent nos.1 to 4.

3. The learned Counsel for the appellant submits that the learned trial Judge has acquitted respondent nos.1 to 4 mainly on two grounds. Firstly, there has been delay in lodging the report, which has not been explained; and secondly, the place, where the incident took place, was not a public place. He submits that the appellant has specifically explained the delay in his deposition. The incident took place on 15.10.2013. The appellant approached the Police Station for filing the report, however, his report was not accepted by the Police Station Officer. He met the S.D.P.O. and then, the Superintendent of Police (Rural), Aurangabad. In that process, he spent about fifteen days. Ultimately, his

report was directed to be lodged by the Deputy Superintendent of Police, in Police Station, Pishor. He, therefore, lodged the report belatedly.

4. The learned Counsel further submits that the incident took place in the office of the appellant. In view of the judgment in the case of **Bajirao and ors. Vs. The State of Maharashtra and ors., 2016 All M.R. (Cri.) 4557**, the office of the appellant would be a public place and the incident that took place in that office would be within the public view. He submits that there is sufficient evidence to connect respondent nos.1 to 4 with the above-mentioned offences, however, the learned trial Judge has wrongly acquitted them. He, therefore, prays that the appeal may be admitted.

5. The learned Counsel for respondent nos.1 to 4 submits that the contents of the FIR do not at all corroborate the version of the appellant in respect of the explanation given by the appellant for the

delay in lodging the report. He submits that whatever has been stated by the appellant before the Court about his visits to Police Station immediately after the incident and to the S.D.P.O. or the Superintendent of Police, has not been stated by him in the report. He further submits that the Police Station was just near the office of the appellant. He, therefore, submits that the reason given by the appellant for the first time before the trial Court, has been rightly disbelieved by the trial Court. He submits that respondent nos.1 to 4 are the members of the Managing Committee of the school, where the appellant is serving as a Headmaster. Admittedly, respondent nos.1 to 4 have given letters (Exhs.28 to 50) to the appellant in respect of the deficiencies noted by them in the work and behavior of the appellant and advising him to remove those deficiencies. According to him, this was the reason for the appellant to lodge a false report against respondent nos.1 to 4. He submits that the alleged

eye witness also did not support the version of the appellant in respect of the incident in question. According to him, the learned trial Judge has rightly appreciated the facts of the case and has rightly acquitted respondent nos.1 to 4.

6. As stated by the appellant himself, the incident took place on 15.10.2013. However, the FIR has been lodged on 01.11.2013. The appellant has tried to explain the delay in paragraph 2 of his deposition. According to him, his report was not accepted by the Police Station, Pishor and therefore, he was required to approach the S.D.P.O. and Superintendent of Police (Rural), Aurangabad. In that process, delay occurred in filing the report. The FIR (Exh.24), indeed, does not contain anything about non-acceptance of the FIR by the Police Station and visits of the appellant to the S.D.P.O. or the Superintendent of Police for his grievance against the Police Station Officer concerned, for not accepting the report. There is absolutely no evidence

to show that the report of the appellant was not accepted by the Police Station Officer and that as per the directions of the superior Officer of the Police Station concerned, his report was ultimately accepted. Thus, the reason given by the appellant before the trial Court, for the first time for such a long delay of more than sixteen days, *ex-facie* would be an outcome of afterthought and cannot be believed. The learned trial Judge has rightly disbelieved the reason given by the appellant. Consequently, in view of the judgment in the case of **State of Maharashtra Vs. Parmeshwar Gurubasappa Lakabshetti and ors., 2008 All M.R.(Cri.) 2677**, the learned trial Judge rightly observed that this unexplained long delay in lodging the FIR would be fatal to the prosecution.

7. So far as the place of the incident is concerned, there may be some dispute about its nature. However, Ramesh Kumar (PW 3), who is stated to be an eye witness, did not support the version of the informant about occurrence of the incident. There

is no independent corroboration to the version of the informant about the alleged incident.

8. Admittedly, respondent nos.1 to 4 are the members of the Managing Committee of the school in which, the appellant is serving as a Headmaster. There are letters (Exhs.28 to 50) issued by the Secretary/President of the Management of the school, wherein all deficiencies were noted about the work and behavior of the appellant. There are four letters dated 11.10.2013, 21.10.2013, 22.10.2013 and 28.10.2013 showing these deficiencies on the part of the appellant. It is alleged that during the period from 17.10.2013 to 19.10.2013, the appellant locked his office and left the school without getting leave sanctioned and appointing an In-charge, due to which, the official work of the school was held up.

9. It seems that after receipt of the letter dated 28.10.2013, the appellant decided to lodge the FIR against respondent nos.1 to 4. This letter sufficiently throws light on the strained relations

of the respondents on one hand and the appellant on the other. In the circumstances, it would be risky and hazardous to rely on uncorroborated testimony of the informant. In the absence of any independent evidence, the learned trial Judge rightly disbelieved the evidence of the informant in respect of the alleged incident.

10. In the above circumstances, the judgment of acquittal passed by the learned trial Judge, supported by valid reasons, in my view, cannot be allowed to be challenged by filing appeal. There are no valid and substantial grounds for admitting this appeal against the judgment of acquittal. In the result, the appeal is dismissed.

[SANGITRAO S. PATIL, J.]

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