

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

CRIMINAL APPEAL NO. 202 OF 1999

The State
Union Territory of Dadra &
Nagar Haveli,
Through Public Prosecutor
for Union of India.

.. Appellant /
Orig.Complainant

Vs

1. Nanu Ugade Gond,
aged about 33 yrs.
2. Raju Nagji Dapsa,
aged about 28 yrs.
3. Sonia Gopji Kuvra,
aged about 45 yrs.
4. Shankar Ladakia Chimda,
aged about 22 yrs.
5. Tania Ugade Gond,
aged about 35 yrs.

All residents of Rudhana
6. State of Maharashtra.

.. Respondents /
(1 to 5 Orig.
Accused 1 to 5)

Ms.Purnima H.Kantharia – Public Prosecutor for Union Territory.

None for Respondents.

Coram : N.M.Jamdar, J.
Date : 11 August 2017.

Oral Judgment :

This Appeal is filed by the Union Territory of Dadra Nagar Haveli, challenging the Judgment and order passed by the learned Judicial Magistrate Silvassa, in Criminal Case No.168 of 1997 acquitting the Respondents-Accused of the offences punishable under section 143, 147, 353, 332, 323, 504, 506 of Indian Penal Code.

2. It was a case of the prosecution that at the relevant time, the Complainant PW.1 was working as a Forest guard in Forest plantation at village Rudhana, in Union Territory of Dadra. It was alleged that on 16 July 1997, the complainant chased away some cattle who were grazing in the prohibited area. Thereafter it was alleged that the accused came to the residence of the Complainant and slapped him and also beat him with fist blows. First Information Report was lodged and charge under section 143, 147, 353, 332, 323, 504, 506 of Indian Penal Code, was framed. The learned Magistrate after considering the evidence on record came to the conclusion that the case was not proved by the prosecution and proceeded to acquit the Respondent-Accused by judgment and order which is challenged in the present Appeal.

3. I have heard Ms.Kantharia learned Public Prosecutor and I have gone through the Record and Proceedings.

4. On behalf of the prosecution, PW.1 -the Forest guard who was stated to be assaulted was examined. According to his version, when he was on duty he saw two ladies, Pathali and Josna, who had brought their cattle into the area of plantation and he had driven out the cattle from the plantation. It was further alleged that thereafter, the accused persons came to his house and he was slapped. In the cross-examination however, he gave various admissions. He stated that he has a maintenance register however, he did not report anything about the grazing of the cattle in the area. He had not given any report to the police. He also admitted that the so-called prohibited area was not demarcated by any fencing. He admitted that the lady, Pathali, had lodged a complaint in the police station that the Complainant had beaten her and the other lady, Josna. Suggestion is given by the defence that as a counter-blast to the complaint filed by the two ladies against the Complainant for beating them, the Complainant has lodged the present case. The learned Magistrate after taking note of these admissions in the cross-examination, found that at the most what can be attributed is a simple altercation.

5. Considering the fact that, on 16 July 1997 itself, the two ladies had already filed complaint against the Complainant -Forest Guard, the possibility that the present case was filed by the

Complainant as a counter-blast cannot be ruled out and if this is one of the grounds taken into consideration by the learned Magistrate while acquitting the Respondents, it cannot be said that the view taken is totally perverse.

6. As far as the PW.2- watchman is concerned, in his cross-examination he has admitted that he does not know who exactly had assaulted him, which is difficult to believe, considering that he was residing in a small village where generally people know each other.

7. The scope of appeal against the acquittal is well-settled. Unless the judgment of the trial Court is perverse or the view taken is impossible, the Appellate Court will not ordinarily reverse the order of acquittal. The incident stated to have taken place occurred twenty years ago. The Appeal has come up for hearing after eighteen years. Considering all these circumstances, no case is made out for reversal of the order of acquittal. Appeal is dismissed.

(N.M.Jamdar, J.)