

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.17 OF 2016

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

BABURAO BHAU PATIL AND ORS.)...RESPONDENTS

Mr.S.V.Gavand, APP for the Applicant - State.

CORAM : A. M. BADAR, J.

DATE : 17th FEBRUARY 2017

P.C. :

1 This is an application for grant of leave filed by the State seeking to challenge the judgment and order of acquittal of respondents / accused of offence punishable under Section 3(1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, as well as under Sections 504 and 506 of the IPC.

2 Heard the learned APP appearing for the State. By taking me through the evidence of the informant PW1 Anandrao

Ingawale, PW4 Vinayak Ingawale (son of the informant) and that of PW6 Rajaram Patil, the learned APP argued that evidence of these three witnesses examined by the prosecution is consistent and pointed out intentional insult and intimidation to informant Anandrao for humiliating him in a public place within a public view, he being member of the Scheduled Castes. The learned APP further argued that evidence of eye witnesses came to be ignored by the learned trial court by holding that they are not aware about civil litigation between the informant and accused persons. Hence, in submission of the learned APP, the impugned judgment and order of acquittal is perverse.

3 I have carefully considered the submissions so advanced and also perused the evidence of prosecution witnesses apart from the impugned judgment and order.

4 According to the prosecution case, informant Anandrao as well as accused persons reside at Village Sagaon in Shirala Taluka in Sangli District. Informant PW1 Anandrao

Ingawale is retired Head Master where as the son PW4 Vinayak Ingawale is a Civil Engineer and Civil Contractor doing business in the name and style as Bhakti Builders and Laxmi Developers. According to the prosecution case, on 10th February 2012, informant PW1 Anandrao was getting the sugarcane crop from the field harvested. At that time, accused persons obstructed harvesting of the sugarcane crop. Upon being questioned, accused nos.1 to 3 rushed towards informant Anandrao and his son Vinayak. It is averred that accused no.2 Ganesh Patil threatened informant PW1 Anandrao by uttering “*A Khatkya Tula Bakryasarkhe Hat Pai Todun Thar Marto Udyaparyant Tula Thevat Nahi, Mi Patil Ahe Tula Mahit Nahi, Patlacha Hiska Kai Asto Te Tula Dakhavto Haramkhor*” meaning thereby that *Khatkya you will be killed like a goat by amputating hands and legs by tomorrow, I am Patil, you do not know power of Patil and I will show it to you. You lewd person.* According to the prosecution case, the report of this incident was not registered by the police on 10th February 2012 despite attempt by the informant and ultimately he sent a written complaint on 12th February 2012 and ultimately his FIR came to

be registered on 7th August 2012. It is seen that investigation resulted in filing of the charge-sheet and after due trial, the learned Special Judge, Islampur, vide impugned judgment and order dated 29th October 2015 was pleased to acquit accused persons of offences alleged against them.

5 I have carefully examined evidence adduced by the prosecution. It is in evidence of PW1 Anandrao that accused no.1 Baburao had executed Sale Deed of the land in question in his name as well as in name of his family members. However, from the cross-examination of this witness, it revealed that the accused has filed a Special Civil Suit bearing No.7 of 2011 against informant PW1 Anandrao in respect of Survey No.86/9 and Survey No.86/10-A and the same is pending from the year 2011. It is also seen from cross-examination of PW1 Anandrao that accused no.1 Baburao had filed a private criminal complaint against Anandrao, his son Vinayak, his wife Usha as well as Vasant Parle. Cross-examination of the informant further reveals that before he lodged complaint of the incident, accused no.1 Baburao

had filed private criminal case against him in the court of the learned JMFC, Shirala. Cross-examination of PW1 Anandrao further reveals that he is treated as respectable person at Village Sagaon and nobody dares to abuse him in the name of his caste in Village Shirala. This witness has accepted the fact that his social and economical status is higher than the social and economical status of the accused persons.

6 PW1 Anandrao, PW4 Vinayak and PW6 Rajaram Patil in their evidence have categorically deposed utterances of accused no.2 Ganesh Patil addressed towards PW1 Anandrao Ingawale, as stated in foregoing paragraph while narrating the case of the prosecution. However, PW3 Tanaji Patil, who is also one of the eye witnesses to the incident, has stated that there was dispute between accused persons and Anandrao Ingawale, at the time of harvesting sugarcane crop.

7 *Prima facie*, it is seen that the sugarcane crop which was harvested, was in the field which was subject matter of civil

litigation between the prosecuting party as well as the accused persons. That apart, there were other litigations between the prosecuting party as well as accused person. In the backdrop of this fact situation, the learned trial Judge was pleased to acquit accused persons of offences alleged against them with following observations and findings in paragraph 25 of the impugned judgment and order, which reads thus :

“25 From the facts and circumstances of this case it is clear that PW-1 Anandrao Ingawale and three others were prosecuted by accused No.1 (Crime No.4/2011) dated 16-07-2011 long before the alleged incident. Regular Civil Suit No.70/2009 is pending in respect of disputed plots between the complainant and accused since 2009 (from the period of three years before the incident). Thus, as discussed above considering dispute of lands, civil and criminal cases pending between the complainant and accused, delay of six months for registration of crime by police authority, I am of the view that possibility of lodging false complaint against accused by complainant with the help of his son cannot be ruled out. Due to above factors, testimony of prosecution witnesses is untrustworthy

and unsafe to rely. “

8 Even after re-appreciation of the prosecution evidence, while examining the matter at the stage of admission, I am unable to find fault with the findings recorded by the learned trial court. It cannot be said that the learned trial court has not taken plausible view of the matter while acquitting the respondents / accused of offence alleged against them.

9 It is well settled that when two views are equally possible, then the view taken by the learned trial court cannot be faulted.

10 In this view of the matter, no case for grant of leave is made out.

11 The application is, therefore, rejected.

(A. M. BADAR, J.)