

(1)

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

CRIMINAL APPEAL NO.171 OF 2016

State of Maharashtra,
through Police Station Officer,
Police Station, Pandharkawada,
Tq. Pandharkawada,
Distt. Yavatmal

..APPELLANT

VERSUS

Vijay Kisan Pimpale,
Aged 30 years,
R/o Ranapratap Ward,
Pandharkawada, Distt. Yavatmal

..RESPONDENT

Mr S.A. Ashirgade, Addl. Public Prosecutor for appellant;
Mr N.A. Gaikwad, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 21st March, 2017

ORAL ORDER

By this appeal, the appellant – State seeks enhancement of punishment imposed on the respondent – accused, by learned Ad hoc Additional Sessions Judge-1, Kelapur, in Special (Atro.) Case No.8 of 2014, for offences punishable under Sections 294 and 509 of the Indian Penal Code, vide judgment and order dated 2nd February, 2016.

2. Learned Addl. Public Prosecutor invites attention of this Court to the nature of evidence of P.W.1 informant Poonam and P.W.2 Ashish, so as to impress upon the Court that punishment of imprisonment for fifteen days imposed on the respondent – accused is disproportionate to the punishment provided for the offences for which he has been convicted.

(2)

According to him, P.W.1 complainant and P.W.2 her husband have proved beyond reasonable doubt commission of the offence in question by the respondent.

3. With the assistance, I have scanned the evidence of the witnesses, namely, P.W.1 Poonam at Exh.9, P.W.2 Ashish at Exh.13, husband of P.W.1, P.W.3 Mangesh, P.W.4 Janabai and P.W.5 Bhalchandra, the Investigating Officer.

4. Exh.25 is the spot panchnama. It has been proved by P.W.3. However, it cannot be inferred therefrom that the incident in question had taken in public view. P.W.3 Mangesh has not supported the case of the prosecution to prove the spot panchnama, though the same can be considered to have been proved by virtue of evidence of P.W.5 Investigating Officer.

5. Upon cumulative effect of appreciation of the entire evidence brought on record on behalf of the prosecution, I do not see any material to infer that the incident in question had taken place in public view.

6. In view thereof, in my opinion, no case for consideration or indulgence is made out. The present appeal being devoid of merits stands dismissed.

(N.W. SAMBRE, J.)

amj