

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.47 OF 2016***

The State of Maharashtra ... Applicant
Vs
1 Bajirao Dongariba Katkar
and Anr. ... Respondents

...

Mr. V.V.Gangurde, APP for the Applicant-State.
Mr. Anand S. Patil for the Respondent Nos. 1 and 2.

***CORAM : A.S.OKA &
SANDEEP K. SHINDE JJ.
DATE : 8 JANUARY, 2019***

P.C. :

The Applicant-State has sought leave to prefer an appeal against the judgment and order dated 31st May, 2015 passed by the learned Assistant Session Judge, Kolhapur. By the said judgment and order, the Respondents who were charged with offences punishable under Section 3(i)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 323, 353, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 have been acquitted.

2 The case of the prosecution is that the first informant P.W.1 Ram was the Gram Sevak of the concerned village. On 11th August, 2014, in presence of at-least 3 employees, at about 11.10 a.m., the first accused entered Village Panchayat office and asked for including his house in Gaothan area. The allegation is that when P.W.1 refused the demand and told him to apply in writing, the first accused got annoyed and abused him as alleged. It is alleged that the first accused obstructed P.W.1 in his duty, pulled his jacket and beat him by hand. It is alleged that as a result of the said act, an amount of Rs.600/- kept on the table of the first informant was lost. It is alleged that persons present in the office pulled back the first accused. It is alleged that subsequently, the first accused came with the second accused who is the wife of the first accused and asked her to slap P.W.1. Accordingly, she gave a slap to P.W.1. It is alleged that accused threatened P.W.1 to kill and break his hand and leg.

3 After considering the prosecution evidence, the order of acquittal was passed by the learned Assistant Sessions Judge. The learned Assistant Sessions Judge found that alleged eye witnesses (P.W.2 to 12) did not support the prosecution and were declared hostile. The learned Assistant Sessions Judge has considered deposition of P.W.1. The learned Assistant Sessions Judge found that caste certificate of P.W.1 produced by the prosecution revealed that his caste was Mahadeo Koli and, therefore, came to conclusion that the words allegedly uttered by the accused no.1 did not contain a reference to the said caste. Moreover, the learned Assistant Sessions Judge after careful scrutiny of the cross-examination of P.W.1 came to conclusion that there was no evidence adduced by the prosecution to show that the P.W.1 was Gram Sevak of the village at the relevant time.

4 After having gone through the evidence of P.W.1, we find that the view taken by the learned Assistant Sessions Judge that testimony of the said witness is full of contradictions and

improvements is certainly a possible and probable view which could have been taken on the basis of the evidence on record. Even assuming that some other view is possible, this Court cannot interfere with the impugned judgment in an appeal against acquittal. Hence, no case is made out for grant of leave to prefer an appeal. Hence, the Application stands rejected.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)