

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPEAL NO.919 OF 2002

Nivrutti Sadhu @ Sudam KhadkeAppellant
Versus
Popat Sidhu Dongare & Ors.Respondents

Mr. Sandeep Salunkhe for Appellant.

Ms Pallavi Dabholkar, APP for State.

CORAM : SMT. BHARATI DANGRE, J.

DATE : 29th NOVEMBER, 2019

P.C.

1. After one and half decade from passing of the order dated 02.05.2002 below Exhibit 24 and 29 in R.C.C.No.23/96, the appellant is before the Court. The grievance is that on bare instructions received from the APP seeking withdrawal of the prosecution under Section 321 of the Code of Criminal Procedure, 1973, the application has been granted.

2. Learned counsel for the appellant submits that as regards the withdrawal from prosecution, the provisions contained in the code are well established and it is expected that the PP will not do so merely on his own or for sake of someone but will apply his mind to the relevant facts. There is

no quarrel about the legal position on the said point. The impugned order infact makes a reference to the legal position, but on facts it is observed that the APP has stated that the case was instituted on account of political rivalry. The APP also made reference to the statements, which were recorded by the police and urged the Court that many independent witnesses have not supported the prosecution case about the incident and they appear to have hear-say knowledge. In view of the counter matters, the Court based, on the submissions of the APP, has recorded that they are out of political rivalry and it cannot be said that the APP has not acted as a free agent and influenced by irrelevant and extraneous consideration. Based on the said application, the accused persons were acquitted for the offence punishable under Sections 149, 148, 323 r/w. 149, 506 r/w.149 of the Bombay Police Act.

3. Another reason why I am not inclined to interfere is the passage of time and it is said that time is a great healer and quietus has been put to the rivalry of two groups, I do not find any legal infirmity in the order passed by the learned Trial Court below Exhibit 24 and 29. Resultantly, the criminal appeal is dismissed.

[BHARATI DANGRE, J.]