

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO.687/2018

Sanjiv s/o Vishwasrao Gedam (Victim) .vs. State of Maharashtra, through
SDPO, Sindewahi, Chandrapur and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A. K. Sorde, Advocate holding for Mr. H. P. Lingayat,
Advocate for applicant.

Mr. M. K. Pathan, A.P.P. for non applicant no.1.

Mr.A. D.Hazare, Advocate for non applicant nos.2 and 3.

CORAM : V.M. DESHPANDE, J.

DATED : FEBRUARY 25, 2019

This is an application seeking leave to file appeal challenging judgment and order of acquittal passed by learned Additional Sessions Judge-3 and Special Judge, Chandrapur dated 03.05.2018 in Special (Atrocity) Case No.24/2009, acquitting non applicant nos. 2 and 3 of an offence punishable under Section 3 (i) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

I have heard Mr. Sorde, learned counsel holding for Mr. Lingayat, learned counsel for applicant, Mr. Pathan, learned A.P.P. for non applicant no.1-State and Mr. Hazare, learned counsel for non applicant nos. 2 and 3.

According to prosecution case, on 18.08.2009, applicant/complainant lodged report Exh.-25 that on said day in the evening at about 5.00 O'clock, he was sitting in staff room, the peon Manjusha gave him a message that non applicant no.2/accused no.1, being Head Master of School called him in 9th standard. When he went there, children of

9th standard were present. Accused no.1 scolded him saying that his work is not proper and extended threats in presence of children and insulted him. It is also prosecution case that the accused no.1 inspected the register and on noticing the applicant/complainant, she uttered abusive language in the name of caste. Prakash (PW5) and Manjusha (PW6) did not support the prosecution case in any manner. The learned Judge found that incident occurred on 18th and he approached to a politician for getting his complaint computerized. However, the said computerized report is not on record. The Court below also found that delay is not properly explained.

Perusal of impugned judgment shows that the Court below has supplemented good reasons for acquitting non applicant nos. 2 and 3. By now, law for consideration of an appeal against acquittal is well crystallized. Merely because another view is possible, the appellate Court should not substitute its own view in place of the view taken by the Court below, if it is noticed by the Court below that the view taken by the Court below is based on available material in the prosecution case.

In that view of the matter, I see no reason to interfere with the impugned judgment. Hence, leave to file appeal is refused and application is rejected. Consequently, the appeal is also rejected.

JUDGE