



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLN. FOR LEAVE TO APPEAL BY STATE NO. 10 OF 2023

The State Of Maharashtra
VERSUS
Pramod @ Bhavdya Dadu Pagare

.....
Mr. R.B. Dhaware, APP for Applicant-State
Mr. G.R. Syed, Advocate for Respondent
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 03rd SEPTEMBER, 2024

ORDER :

1. State has filed this application under Section 378(1) (b) of the Code of Criminal Procedure, seeking leave to file appeal, challenging the judgment and order of acquittal dated 02.11.2022 passed by the learned Additional Sessions Judge, Ahmednagar in Sessions Case No.141 of 2020.

2. Respondent/accused was charged under section 188, 269, 353 and 504 of the Indian Penal Code. It is the prosecution case that on 02.05.2020, informant Mahendra Suryakant Sagar lodged FIR alleging that, when he was on patrolling with P.S.I. Solanki at Civil Hudco and checking the persons who were wandering without any reason and was taking action against them under section 188 of the Indian

Penal Code. At about 7.45 p.m., when they were patrolling in the vicinity of Civil Hudco, Ahmednagar, at Bharat Chowk, a person was found unnecessarily standing there without wearing mask. On asking, he disclosed his name as Pramod @ Bhavdya Dadu Pagare, resident of Bharat Chowk, Civil Hudco, Ahmednagar. When asked as to why he was standing there, he got annoyed and said that he is *Bhai* of that area and how the informant was dared to ask him the reason of his standing there in his area. He can wander anywhere and nobody can object him. Accused, thereafter, rushed on the person of informant and caught hold his shirt's collar and threatened that he will see him tomorrow. He threatened informant and manhandled him. Informant's uniform button was broken. His colleagues Sachin Dighe, Ranjeet Chavhan and Amol Kute intervened in the quarrel. On the basis of very report, Crime No.4299/2020 is registered under sections 353, 332, 506, 188 and 269 of the Indian Penal Code. On completion of investigation, charge-sheet was filed and respondent/accused was charged for offences as stated above. After recording evidence of five prosecution witnesses and three defence witnesses, trial Court has acquitted respondent/accused. Hence, this application.

3. Heard learned APP for applicant-State and learned advocate for Respondent/accused. Perused the impugned judgment and order of acquittal and documents placed on record.

4. On going through the documents placed on record, it appears that there is discrepancy in the evidence of the prosecution and the spot panchanama. The witnesses who allegedly intervened in the quarrel and separated the informant from accused are not examined. Trial Court has properly appreciated the evidence and has also considered the evidence of defence witnesses and by a well reasoned order acquitted the accused. View taken by the trial Court is a possible view, which need not be interfered with while exercising jurisdiction under section 378 of the Code of Criminal Procedure. Application being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE