



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

CRIMINAL APPEAL NO. 73 OF 2024

SMT. PRADEVI GANPATRAO BANDGAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Babasaheb A. Dhengle, Advocate for Appellant
Mr. D.J. Patil, APP for Respondent No.1/State
Mr. Harshal Prakash Randhir, Advocate for Respondent No.2

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 07th AUGUST, 2024

PER COURT :

1. By this appeal filed under Section 372 of the Code of Criminal Procedure, appellant/original complainant challenges impugned judgment and order of acquittal dated 25/09/2023, passed by learned Additional Sessions Judge, Udgir, Dist. Latur, in Criminal Appeal No.10/2021.

2. Appellant lodged FIR on 07/11/2017 alleging that she is working as Nurse at Chhatrapati Shivaji Maharaj Nivasi Matimand Vidyalaya, Walandi, which is run by Shivaji Ashture, who is brother of accused No.1/respondent No.2. Due to internal dispute of the school accused No.1 was not allowing appellant to sign the muster roll and was not drawing her salary for past six months. She, therefore, met President of Social Welfare Department on 06/11/2017. The President called Shivaji Ashture on telephone and directed him to allow informant to join duty. Therefore, on

07/11/2017 informant went to the school. At that time, accused No.1 called her in office and asked her as to on whose order she has come to the school, she told about oral orders on telephone issued by President of Social Welfare Department to Shivaji Ashture. At that time, accused No.1 /respondent No.2 with bad intentions caught hold her right hand. When informant tried to resist accused tore her blouse and pulled her saree. Informant tried to run away from the office, however, accused No.1 came behind her and again caught hold her right hand and pulled her down on the ground. He inflicted blow of brick on her back. When she tried to get up, he kept his legs on her hands. Though she was screaming for help, none dared to help her. Thereafter, accused Nos. 2 to 4 dragged her and threw her outside the gate. During this process, they touched various parts of her body. One Pandit Bhandre inquired with informant and took her to Deoni Police Station on his motorcycle, where informant lodged the FIR and C.R. No.197/2017 was registered for offences punishable under Sections 354 and 323 read with Section 34 of the Indian Penal Code, against four accused persons.

3. Trial Court after recording evidence convicted accused No.1/respondent No.2 and sentenced him to simple imprisonment for one year, for offence punishable under Section 354 and acquitted rest of the accused. Respondent No.2 challenged the conviction by filing Criminal Appeal No.10/2021, which is allowed by the Sessions Court, thereby acquitting respondent No.2. Appellant /

informant is aggrieved by the impugned judgment and order of acquittal passed by the Sessions Court.

4. Heard learned advocate for appellant, learned APP for State and learned advocate for respondent No.2. Perused the documents placed on record and the impugned judgment and order.

5. Record indicates that by order dated 07/11/2017 services of appellant were terminated. Appellant had given various admissions, thereby admitting that from time to time the school had issued notices to her regarding misconduct and her absence on duty without leave. She had also given undertaking to the school that she will not give opportunity of complaint in future and she will personally look after the treatment of students. She had also admitted that she remained absent in the school after end of maternity leave. At the time of alleged incident of outraging her modesty, there were 17 employees working in the school. She admitted that all those employees were present at the time of incident but she was not in a position to state their names. She has improved her version in the evidence before Court.

6. Sessions Court after, appreciating the evidence has rightly come to a conclusion that appellant is not responsible and punctual employee. She had given undertaking to the school authority regarding improvement in her behaviour in the school in future. She remained absent on duty without leave. Even she was absent from duty at the time of visit of superior authorities to the

school. It is further observed that, she has improved her version during evidence, than the version given by her in FIR. The brick with which she was allegedly assaulted was not seized, so also, her torn blouse.

7. Also, when appellant's services were terminated vide order dated 07/11/2017, there was no occasion for her to go to the school, where alleged incident had taken place. There is every possibility that because of her termination, she has lodged false FIR against accused persons. Sessions Court on careful appreciation of evidence has found fault with the judgment of conviction passed by the Trial Court and by giving elaborate reasons has rightly acquitted respondent No.2.

8. The view taken by Sessions Court is possible view, which is not liable to be interfered with in exercise of power under Section 372 of Cr.P.C. No case is made out by appellant to interfere in the impugned judgment and order of acquittal. Appeal being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)