



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

CRIMINAL APPEAL NO. 837 OF 2024

THE STATE OF MAHARASHTRA
VERSUS
SHAHANAWAJ KHAJAMIYA SHAIKH AND ANOTHER

...
Mr. Rajdeep Raut, APP for Appellant
Mrs. Asfia Nuzhat Ansari, Advocate for Respondent No.1
Mr. Angad Lala Kanade, Advocate for Respondent No.2

...
**WITH
CRIMINAL APPEAL NO. 231 OF 2023**

XYZ
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Angad Lala Kanade, Advocate for Appellant
Mr. Rajdeep Raut, APP for Respondent No.1/State
Mrs. Asfia Nuzhat Ansari, Advocate for Respondent No.2

...
CORAM : NITIN B. SURYAWANSHI, J.

DATE : 14th OCTOBER, 2024

PER COURT :

1. Criminal Appeal No.837/2024 is filed by the State under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereas Criminal Appeal No.231/2023 is filed by victim/informant under Section 378(4) of the Cr.P.C. Both these appeals impugn the judgment and order of acquittal dated 02/01/2023, passed by learned Special Judge (Atrocity), Udgir, in Special Case (Atrocity) No.15/2019.
2. Informant who belongs to scheduled caste, lodged FIR on 29/09/2019 of the incident occurred on 28/09/2019, stating that

he is working as mason and on the day of incident he was working at the house of Ankush Baburao Biradar for constructing water tank. After finishing his work, Ankush and informant were going to market for purchasing vegetables. When they reached at Shahu Chowk, accused, neighbour of Ankush and one unknown person came in the car near informant and Ankush. Accused got down from car and gave kick blow on the person of informant and pushed him. He gave kick blow on the face of informant, due to which he received injury to his lower lip. When Ankush asked accused the reason of beating, accused abused informant by referring to his caste in filthy language. He also asked informant as to why he constructed water tank and water tap and he would kill him. Thereafter, accused left the spot. Offence at C.R. No.217/2019 is registered on the basis of said report. On completion of investigation charge-sheet was filed. Learned Special Judge (Atrocity), Udgir, framed the charge against accused for offence punishable under Sections 294, 323, 504, 506 of I.P.C. and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. In support of it's case, prosecution has examined six witnesses and the Trial Court has acquitted the accused person. State and the informant are aggrieved by the impugned judgment and order of acquittal.

3. Heard learned advocate for informant, learned APP for State and learned advocate for accused.

4. Learned APP and learned advocate for informant

assailed the impugned judgment and order of acquittal contending that, the Trial Court has misread and misconstrued the evidence on record and has erroneously acquitted accused. By referring to the evidence of witnesses examined by prosecution, they would urge that evidence on record is sufficient to warrant conviction of accused.

5. Learned advocate for accused, on the other hand, supported the impugned judgment and order and submitted that there is no merit in the proceedings filed by the State and informant.

6. Perusal of evidence brought on record by prosecution indicates that accused person was not knowing informant prior to the incident. Therefore, there was no occasion for accused to know his caste. Admittedly, alleged incident has taken place in the presence of Ankush, at whose house water tank was constructed by informant and he is the eye witness of the alleged incident. For the reasons best known, he is not examined by prosecution. Prosecution has failed to prove that informant belongs to scheduled caste. In the medical certificate no history of assault is recorded. Medical officer has admitted in her evidence that injuries sustained by informant are possible by fall or can be caused by own teeth. There is no corroboration to the evidence of informant.

7. Trial Court has properly appreciated the evidence on record and has passed a well reasoned order of acquittal. View

taken by the Trial Court is a possible view. No case is made out to interfere in the same. Both the appeals being devoid of merit are dismissed.

(NITIN B. SURYAWANSHI, J.)