



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

CRIMINAL APPEAL NO. 819 OF 2023

SANTOSH KASHINATH YETALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. Arun S. Shejwal, Advocate for Appellant
Mr. S.B. Jadhav, APP for Respondent No.1/State
Mr. Amol Kale, Advocate h/f Mr. Sambhaji S. Tope, Advocate for
Respondent Nos.2 To 5 & 7 To 9
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 11th JULY, 2024

PER COURT :

1. This appeal filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, takes exception to the judgment and order dated 05/07/2023, passed by learned Special Judge (Atro), Ambad, District Jalna, in Special Case (Atro) No.79/2021, thereby acquitting accused persons.

2. Appellant lodged FIR against accused persons alleging that on 05/05/2018, at about 07:45 Hours, appellant and his father were at their home at Gori. At that time, accused Bandu and Ashok entered his house and abused and slapped him. Thereafter they caught hand of appellant and dragged him in courtyard. Then they called rest of accused persons and all the accused took the name of their caste and abused them. Thereafter, other accused Krushna,

Rajendra and Datta hit him with belt on his ear, back, shoulder and hand. Accused Satish hit him with brick and rest of the accused showered fists and kick blows on him. Witnesses saved him. Accused were charged for offences punishable under Sections 452, 323, 504, 506, 143, 147, 148, 149 of I.P.C. and Section 3(1)(w) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In support of its case, prosecution examined six witnesses. Special Court acquitted accused. Hence, the present appeal.

3. Heard learned advocate for appellant, learned advocate for respondent Nos.2 to 5 and 7 to 9 and learned APP for respondent No.1/State. Perused the documents placed on record.

4. There are discrepancies in the evidence of prosecution witnesses, which are noted by the trial Court in its judgment. Admittedly, there was dispute between appellant and accused persons as their agricultural lands are adjacent to each other. One Sunita from accused's side has lodged FIR against appellant alleging that twice the appellant has committed offence punishable under Section 354 of I.P.C. against her. Therefore, there appears strain relations between accused and appellant. No independent witness is examined by prosecution to establish presence and active participation of accused. All witnesses examined by them are interested witnesses and relatives of appellant. There is no injury certificate brought on record. Trial Court has also disbelieved

utterance of name of caste by accused and abuses observing that, *"It is not possible to utter such single sentence at a time at once by in all six persons"*. It is thus clear that prosecution has utterly failed to prove it's case beyond reasonable doubt.

5. Trial Court has assigned proper reasons while passing the order of acquittal. View taken by the trial court is a possible view, which is not liable to be interfered with. Appeal being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)