



drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.970 OF 2022

Raghunath Girjappa Kamble

APPELLANT

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. Panditrao S. Anerao, Advocate for the appellant
Mr. S. B. Jadhav, APP for respondent - State
Mr. Hamzakhan I. Pathan, Advocate for respondents No.2 to 10
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 18th JULY, 2024

ORDER :

1. This appeal, filed under section 372 of the Criminal Procedure Code, challenges impugned judgment and order of acquittal, dated 18th August, 2022, passed by learned Additional Sessions Judge, Ahmedpur, District- Latur, in Special Case (Atrocity) No. 12 of 2020.

2. Prosecution case, in short, is that, appellant - informant is resident of village -Rui, Taluka - Ahmedpur, District - Latur. On 2nd May, 2020, he approached Ahmedpur Police Station and lodged a report contending that on that day, between 7.30 a.m. and 8.00 a.m. informant, Ganesh Kamble and Namdeo Kamble went to common water tank to fetch water. Pipeline was laid

from Limboti dam to said water tank. Accused No.1 Ram Devkate, without permission, took connection from the said pipeline to his house, because of which water flow to the common water tank was drastically reduced.

3. Informant and witnesses informed Sarpanch - Ashok Patil and Gramsevak Mr. Shaikh, however, nobody dared to question accused Ram. Informant, his two grand sons Ganesh and Nilesh, along with Village Sarpanch went to Accused Ram. All the accused, thereon uttered name of caste of informant and assaulted him with fists and kick blows. Accused Ram assaulted Ganesh by axe, on his head. Accused Hanumant and Vilas assaulted Nilesh, by stick on left hand. All the accused abused informant and witnesses, in the name of caste and gave threats to kill.

4. Respondents - accused, were charged for offence punishable under section 3 (1) (r) (s), 3 (2) (va) of the Scheduled Casts and Scheduled Tribe (Prevention of Atrocities) Act and under section 143, 147, 148, 324, 323, 506 read with 149 of the Indian Penal Code.

5. In support of the case, prosecution examined 9 witnesses. Trial Court acquitted the accused. Hence, the appeal.

6. Heard learned advocate for appellant, learned advocate for respondents – accused and learned APP for the State. Perused the documents on record and the impugned judgment and order of acquittal.

7. Perusal of depositions of the Prosecution Witnesses indicates that their evidence is inconsistent with each other. All the accused in chorus have taken the name of caste and abused the informant and others, which is unbelievable. Prosecution has examined only interested witnesses. Though it is specifically alleged that Ganesh was assaulted on head by means of axe, there is no head injury caused to Ganesh. Therefore, Trial Court has rightly held that allegation pertaining to assault to Ganesh also become unsafe to rely. Admittedly, there is political rivalry. Sarpanch had complained about encroachment made by persons belonging to Scheduled Caste on gairan land. Prosecution Witnesses have also admitted that they have encroached on gairan land and accused Ram, while he was Sarpanch of the village, had submitted an application to the Tahsildar requesting removal of encroachment committed by persons belonging to Scheduled Caste, including informant, on the gairan land. Trial Court, therefore, held that the reason for occurrence of the incident appears to be doubtful, there are inconsistencies between evidence of the witnesses pertaining to the actual

incident and defence of previous enmity is raised, which appears to be probable and, therefore, has rightly granted benefit of doubt to the respondent - accused.

8. Reasons assigned by the Trial Court are cogent and proper. No case is made out by appellant to interfere in the impugned judgment and order of acquittal. Appeal is, therefore, dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

drp/criapel970-22.doc