
(2013) 06 BOM CK 0024

In the Bombay High Court

Case No : Criminal Appeal No. 845 of 2011

Balasaheb Vasudeo Ligade and Others

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 19-06-2013

Acts Referred:

Citation : (2013) ALLMR(Cri) 4373

Hon'ble Judges : R.C. Chavan, J

Bench : Single Bench

Advocate : A.P. Mundargi, instructed by Kedar J. Patil and Mr. M.R. Prasad, for the Appellant; M.R. Tidke, Assistant Public Prosecutor, for the Respondent

Judgement

R.C. Chavan, J.—This appeal is directed against conviction of the appellants by the learned 1 Additional Sessions Judge, Sangli for offences punishable under Sections 436, 435, 427, 295, 336, 342, 353, 504 and 506 r/w Section 149 of the Indian Penal Code (for short, "IPC") and sentences ranging from six months to seven years imposed upon them for various offences by the learned Judge on conclusion of trial of Sessions Case No. 224 of 1999 before him. Facts which are material for deciding this appeal are as under:

One Rajesh Mane had allegedly kidnapped the daughter of Vishwas Sonkar on 15-9-1998. A mob of 40-50 persons allegedly gathered in the same night and had gone in search of Rajesh Mane and the kidnapped girl. The mob included the appellants. The mob burnt several houses of several persons. The police were informed on telephone and a police party reached the spot. The PSI left two constables to guard the place and the remaining police party went in search of the kidnapped girl and Rajesh Mane. In the next morning, again rioting broke out and 400-500 persons, including the appellants, attacked the houses of other persons belonging to Scheduled Castes and set the houses on fire. A police party immediately reached the village when the rioting was going on. The mob dispersed. On a report about the incident being filed, an offence was registered and the police drew up panchnama of the spot and commenced investigation. In

the course of the investigation, the police seized several articles, examined several witnesses and on completion of the investigation, filed charge-sheet against 104 persons in the Court of Judicial Magistrate, First Class, Kavathe mahankal. The learned Magistrate committed the case to the Court of Sessions.

2. The learned Assistant Sessions Judge, to whom the case was made over, charged all the 104 accused persons of offences punishable u/s 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 7(1)(d) of the Protection of Civil Rights Act and Sections 147, 148, 307, 427, 435, 323, 336, 452, 436, 395, 295, 342, 353, 504 and 506 r/w Section 149 of the IPC. Since the accused persons pleaded not guilty, they were put on trial at which the prosecution examined in all 21 witnesses in its attempt to bring home the guilt of the accused persons. After considering the prosecution evidence in the light of defence raised by the accused persons, the learned Judge convicted and sentenced the 27 appellants for various offences, as aforementioned. He acquitted the remaining accused persons. Aggrieved by their conviction, the appellants have preferred this appeal.

3. The appellants had preferred an application for bail pending the hearing of this appeal. The Bail Application bearing No. 957 of 2011 came to be disposed of by order dated 12-8-2011. The order elaborately considers the evidence tendered. The persons, whose houses were set on fire, were not examined as witnesses. In spite of allegation of rioting on such a large scale, only two persons were shown to have been injured in the rioting and these injuries were certified by PW-16 Dr. Dilip Jadhav as minor. PWs-1, 2, 5, 6 and 14 are the only eye-witnesses and their evidence was inconsistent. After going through the entire evidence it was found that except for appellant No. 15 Shivaji Eknath Patil, in respect of whom there was evidence of two witnesses, PWs-1 and 14, the others were entitled to bail.

4. After this, since there was a division in the village which had affected the harmony, the villagers as well as the authorities seem to have taken an initiative to restore peace in the village and in a Gram Sabha, which was held on 21-7-2012, the villagers decided that the matter may be amicably settled and the cases should be disposed of. This Gram Sabha seems to have been attended even by the Revenue and Police Officers. The State had preferred an application for leave to file appeal against acquittal of the remaining accused persons. This application being Criminal Application No. 13 of 2012 was placed before a Division Bench of this Court which noted that the parties had settled their disputes amicably. The Court also noted that the original complainant was present in the Court and had confirmed the settlement. The original complainant Siddharth Mane is present in the Court today also and he confirms that the villagers have settled the disputes.

5. In the context of these developments, I have heard the learned senior counsel for the appellants and the learned Additional Public Prosecutor for the State and have also gone through the record. As observed in my earlier order dated 12-8-2011, I do not find that there is any material to uphold the conviction of

the appellants, except appellant No. 15 Shivaji Eknath Patil. Therefore, for the reasons which have already been spelt out, namely, that none of the persons whose houses were set on fire were examined as witnesses, secondly, in spite of allegation of serious riot, only two persons were shown to have suffered minor injuries, as stated by PW-16 Dr. Dilip Jadhav, and the evidence of PWs-1, 2, 5, 6 and 14 is discrepant as far as complicity of the appellants other than appellant No. 15 is concerned, the conviction of those appellants would have to be set aside by allowing their appeal.

6. As far as appellant No. 15 Shivaji Eknath Patil is concerned, there are two eyewitnesses who have stated about his participation. Shivaji is in jail since July, 2011, that is for almost two years now. In view of the settlement arrived at amongst the villagers, it would be appropriate if the sentences imposed upon him are reduced to the period already undergone in this very peculiar and special circumstance. In view of the above, the appeal with respect to appellant Nos. 1 to 14 and 16 to 27 is allowed and they are acquitted of the offences charged. Fine, if paid, be refunded to them. Their bail bonds stand cancelled and the sureties discharged.

The appeal with respect to appellant No. 15 Shivaji Eknath Patil is partly allowed. His conviction for the offences punishable under Sections 436, 435, 427, 295, 336, 342, 353, 504 and 506 r/w Section 149 of the Indian is maintained but the sentences imposed are reduced to the period already undergone. Shivaji be released forthwith, if not wanted in any other case.

The appeal accordingly stands disposed of.