

(2021) 09 GUJ CK 0020

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 16031 Of 2021 In R/Criminal Appeal
No. 1272 Of 2021

State Of Gujarat

APPELLANT

Vs

Kalpeshbhai Bharatbhai Vasava

RESPONDENT

Date of Decision : 08-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 378
Indian Penal Code, 1860 — Section 114, 307, 323, 504

Citation : (2021) 09 GUJ CK 0020

Hon'ble Judges : Paresh Upadhyay, J;Dr Ashokkumar C. Joshi, J

Bench : Division Bench

Advocate : Hardik Soni

Final Decision : ?Dismissed

Judgement

Paresh Upadhyay, J

1. This is an application by the State, under Section 378 of the Code of Criminal Procedure, seeking leave of this Court to file appeal against the judgment and order passed by the Additional Sessions Judge, Surat dated 31.05.2021 in Special Case No.135 of 2014. By the impugned judgment, the Sessions Court has acquitted three accused who were tried for having committed the offence under Sections 307, 504 and 114 of the Indian Penal Code.

2. Heard Mr.Hardik Soni, learned Additional Public Prosecutor for the applicant - State.

3. Learned Additional Public Prosecutor has vehemently submitted that, there was evidence on record of the injured witnesses themselves that the accused had attacked them with weapons and the Sessions Court fell in error in not appreciating the said piece of evidence properly. It is submitted that the acquittal recorded by the Sessions Court needs to be interfered with by this Court. It is submitted that this appeal be entertained.

4. Having heard learned APP for the State and having considered the material on record, this Court finds that the following aspects are borne out on the plain reading of the impugned judgment itself. The place is a village in Surat District, the complainant and the accused both belong to same community which is a Scheduled Tribe. They have their own local social conditions. Even the case of the prosecution is that the accused No.3, who is wife of the victim (injured) was staying with other person, which was for relatively for long time and when the injured went to take her wife home, there was attack on him and on his son and three persons are named as accused including the wife of the complainant. It is in this factual background, we have evaluated the judgment of the Sessions Court and we find that the Sessions Court can not be said to have committed any error while coming to the conclusion that the accused could not be held guilty for the offence, they had allegedly committed. It is also a matter of record that the parties had settled the dispute out of the Court, however the said settlement was subsequent to the recording of evidence by the Sessions Court. Be that as it may, we find that no useful purpose would be served by entertaining this appeal. Considering the totality, this application seeking leave to file appeal needs to be dismissed.

5. For the above reasons, this application is dismissed.

6. Criminal Appeal would not survive and the same is disposed of accordingly.