

MHAH010000392018



Presented on	04.01.2018
Registered on	04.01.2018
Decided on	18.10.2019
Duration	Y. M. Ds. 01 09 14

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
AHMEDNAGAR

(Presided over by Amit M.Shete)

Special Case No. 1/2018
Exh.

The State of Maharashtra
Through Dy. S. P. Nagar Nagar City
Dist. Ahmednagar.

.... **Prosecution.**

Versus

Shri. Imran Ayyaj Shaikh,
Age : 30 years, Occ. Business,
R/o. Near Maruti Temple facing
South, Sarjepura, Dist. Ahmednagar.

.... **Accused.**

Offence Punishable U/s. 447, 504 of IPC along
with 3(1)(r)(s) of the Scheduled Caste &
Scheduled Tribes (Prevention of Atrocities) Act
and 3 r/w. 25 of the Arms Act.

Appearance:

Smt. P.K. Kapse, Ld. A.P.P. for Prosecution
Shri. A.A. Sayyad, Ld. Advocate for the accused.

-: J U D G M E N T :-

(Delivered on 18th October, 2019)

1. The accused is facing the trial for the offence of committing trespass and intentionally insulting the informant who belongs to scheduled caste and consequently the charge of atrocities punishable under above referred provision.

(In view of mandate of the said Act, the identity of the victim and other witnesses have been concealed).

Brief facts of the prosecution case are as follows :-

2. On 06.11.2017, at about 10.45 a.m., the informant along with contractor had been to Plot No.18 belonging to his master to see the progress of the work. At that time, the accused arrived there and asked informant as to whose work he is doing. On the same, the informant told the accused about his master who was a Corporator. On hearing the same, the accused took out gun and on the gun point asked the informant to vacate the place. The accused was known to the informant. The accused abused the informant by saying, "*Do not stay here Mangdya. There is no reason for you to stay here.*" Thereafter, the accused snatched the title document from the hands of the informant. The accused gave threats of dire consequences. Hence, the report was lodged and present crime came to be registered.

3. The S.D.P.O. carried out the investigation and filed the charge-sheet. The charge (Exh.5) was framed and explained to the accused in varbitum to which the accused pleaded (Exh.6) not guilty and claimed to be tried. Since, the informant and eye witness failed to support prosecution, the statement u/s. 313 of Cr.P.C. dispensed with.

4. Heard. Following points arose for my consideration. I record my findings against those for the reasons recorded as follow;

Sr. No.	POINTS	FINDINGS
1	Whether the prosecution proves that on 06.11.2017 at about 10.45 p.m. in the open plot of informant's master, the accused committed tress pass by entering in to the open plot of informant's master with intent	No.

Sr. No.	POINTS	FINDINGS
	to commit offence or intimidate or insult or annoy complainant and witnesses ?	
2	Whether the prosecution proves that the accused, on the aforesaid date, time and place, intentionally insulted the informant and witnesses by abusing and gave provocation to them, knowing it to be likely that such provocation will cause them to break the public peace ?	No.
3	Whether the prosecution proved that the accused, on the aforesaid date, time and place, in contravention of the provisions of Arms Act, was found in possession of weapon i.e. country made pistol ?	No.
4	Whether the prosecution proves that the accused on the aforesaid date, time and place, intentionally insulted the informant with intent to humiliate his by abusing, who belongs to scheduled caste ?	No.
5	What order?	The accused is acquitted.

: REASONS :

Points No. 1 to 5:-

5. The prosecution examined P.W. 1 informant and P.W. 2 the friend of informant who was allegedly present at the time of alleged incident. The witnesses failed to support the prosecution. The P.W. 2 even failed to identify the accused. The key witnesses resile from their respective earlier statements. Therefore, the portion was marked as 'A'. The prosecution filed application seeking time to secure the presence of I.O. who at present is busy in election duty. The said application came to be rejected at the same time, the evidence of the prosecution is closed. This is so because the material witnesses failed to support the prosecution version. The portion mark 'A' from the respective statements of the P.W.1 and P.W.2 were to be exhibited through the I.O. and thereafter, the same, at

the most can be used for corroboration purpose. The said evidence is not substantive evidence so as to solely rely upon the same. In that view, there was no purpose in examining the I.O. to prove the portion marks and therefore, the application seeking time to examine I.O. came to be rejected.

6. As noted above, the material witnesses i.e. the informant and his friend who witnessed the incident, failed to support the prosecution. Therefore, the prosecution witnesses failed to prove any charge much less the alleged charge. For the reasons noted above, I constrained to answer all the points accordingly and constrained to pass the following order;

ORDER

1. The accused Shri. Imran Ayyaj Shaikh is hereby acquitted vide Sec. 235 of Code of Criminal Procedure, 1973 of the offence punishable under Sec. 447, 504 of I.P.C. along with 3(1)(r)(s) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act and Sec. 3 r/w. 25 of the Arms Act.
2. His bail bonds shall stand cancelled.
3. The accused is directed to furnish P.R. & S.B. of Rs. 15,000/-in compliance of Section 437A of the Cr.P.C.

(Pronounced in the open court).

Date : 18.10.2019.

(Amit M. Shete)
Additional Sessions Judge,
Ahmednagar