

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
**CRIMINAL APPEAL NO. 417 OF 2017**

Amit Rishikesh Mishra. ... Appellant.  
Vs.  
The State of Maharashtra & anr. ... Respondent

WITH

**CRIMINAL APPEAL NO. 416 OF 2017**

Hiralal Jadhav. ... Appellant.  
Vs.  
The State of Maharashtra & anr. ... Respondent

Mr. A.H. H. Ponda a/w. Mr. Shailesh Kharat, advocate for appellant in  
Appeal No. 417/17.

Mr. Apoorv V. Singh, Advocate for appellant in Appeal No. 416/17.

Mr. Deepak Thakre a/w. Mrs. P.P. Shinde, APP for State.

**CORAM: RANJIT MORE &  
SMT.SADHANA S.JADHAV, JJ.**

**DATE : SEPTEMBER 20, 2017.**

**P.C.**

Heard Mr. Singh, learned Counsel for the appellant in Criminal  
Appeal No. 416/2017, Mr. Ponda, learned Counsel for the appellant in  
Criminal Appeal No. 417 of 2017, Mr. Thakre, learned P.P. for the

Respondent No. 2. The respondent No. 2 is also present in the court.

2 The appellants herein had filed an application seeking pre-arrest bail under section 438 of the Code of Criminal Procedure, 1973 in Crime No. 109 of 2016. The learned Sessions Judge in view of the impediment of Section 18 of the Schedule Caste and Schedule Tribe (Protection of Atrocities) Act had rejected the application by an order dated 2/1/2017. Being aggrieved by the said order, the appellants have approached this Court by filing the present appeal.

3 On 31/8/2016 the respondent No. 2 had lodged a report at Thane Nagar Police Station against Hiralal Jadhav (Appellant in Criminal Appeal No. 416 of 2017) alleging therein that he has committed an offence under section 354 (A) of the Indian Penal Code. On the basis of her report, Crime No. 147 of 2016 was registered against Hiralal Jadhav. As a consequence he was suspended.

4 According to the complainant, on 16/10/2016 she had noticed that her photograph was published in Daily Mumbai Mirror with a news item in

respect of the sting operation done by one Amit Mishra (Appellant in Criminal Appeal No. 417/2017) showing that the respondent No. 2 had demanded gratification. According to her, Hiralal Jadhav in order to wreck his personal vendetta had instigated Amit Mishra to conduct a sting operation and report about the same to the Anti Corruption Bureau. According to the complainant, Amit Mishra was acting upon the instructions of Hiralal Jadhav. On the basis of her report Crime No. 109 of 2017 is registered.

5 According to the complainant, the photo and news was published in Daily Mumbai Mirror to humiliate her and malign her image in public view. It is alleged that Hiralal Jadhav was circulating the said news item in the area of Thane prison. The complainant has further alleged that in fact, Amit Mishra had complained to the Anti Corruption Bureau. However, the Anti Corruption Bureau in peculiar facts of the case had not taken cognizance of the said complaint as there was no substance found in the said allegation. Appellant in criminal Appeal No. 417 of 2017 had handed over the video clip to the anti-corruption bureau and had also approached the office of Lokayukta by filing complaint. Upon perusal of the order

passed by the Lokayukta, it appears that the Lokayukta has observed that the contents of video clip may not be sufficient material to register a complaint. In view of the observations of the Anti-corruption Bureau as well as the Lokayukta, this Court is of the opinion that action on the part of the appellant in Criminal Appeal No. 417 of 2017 cannot be said to be malafide.

6      Upon perusal of the records and after hearing submissions, it is clear that there is no material on record to remotely indicate that Hiralal had conspired with Amit Mishra and therefore, was responsible for the sting operation or the circulation of the news item. Similarly Amit Mishra also cannot be held to be liable for offence punishable under section 3(p)(r) of the Schedule Caste and Schedule Tribe (Protection of Atrocities) Act.

7      We accordingly dispose of the appeals by passing following order :

**ORDER**

- (i) Both the Appeals are allowed. We hereby quash and set aside the order dated 2/1/2017 passed by the learned Sessions Judge at Thane.
- (ii) In the event of arrest, the appellants in both the appeals shall be

released on bail on executing P.R. Bond in the sum of Rs. 20,000/- each with one or two sureties in the like amount.

**[SMT. SADHANA S.JADHAV, J.]**

**[RANJIT MORE,J.)**