

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.610 OF 2017

Aditi Arun Shinde and Ors.Appellants

V/s.

The State of MaharashtraRespondent

Mr. Prakash N. Wagh, Advocate for Appellants.
Mr. H.J.Dedhia , APP for Respondent-State.

**CORAM : SMT. V.K. TAHILRAMANI, &
SANDEEP K. SHINDE, JJ.**

DATE : July 19, 2017.

ORAL JUDGMENT : [Per Smt. V.K.Tahilramani, J.]

Heard the learned counsel for the appellants-
original accused nos.1 to 3 and the learned APP for the
State.

2 This appeal has been preferred by the
appellants being aggrieved by the order dated 5.7.2017
passed by the learned Additional Sessions Judge-2, Thane
in the Anticipatory Bail Application preferred by the
appellants. By the said order, application of the appellants

for anticipatory bail in C.R.No.I-107 of 2017 of Mira Road Police Station under Sections under Sections 143, 147, 149, 354, 324, 504 and 506 of Indian Penal Code and under Sections 3(1), 2, 3(1)(x) and (xi) of the S.C. & S.T. (Prevention of Atrocities) Act, 1989 came to be rejected. It is the case of the complainant that she belongs to scheduled tribe.

3 On 16.3.2017, persons from Municipal Corporation demolished unauthorized shed of the appellants. Appellant Nos.1 and 2 are wife and husband and the appellant no.3 is brother of appellant no.1. Complainant went and opened the gate of the society hence, appellants got annoyed and abused her in relation to her caste and gave her fist blows. Appellant No.3 embraced her and appellant no.2 tore her blouse and pressed her chest. Hence, she lodged complaint.

4 As far as the allegation of abuse in relation to caste is concerned, the complainant has not mentioned in the FIR that she belongs to scheduled tribe and that any of

the appellants abused her in relation to her caste. It is only after some days for the first time she came up with the story that the appellants abused her in relation to her caste hence, her supplementary statement was recorded after many days after the incident and thereafter section relating to the Atrocity Act was added. We are of the opinion that false allegations have been made by way of an afterthought against the appellants in relation to giving abuses to the complainant in relation to her caste.

5 There are allegations in the FIR that the appellant nos.2 and 3 committed an offence under Section 3(1)(xi) of the Atrocity Act. It is noticed that in the FIR, complainant has stated that the appellant no.3 embraced her and at that time, appellant no.2 tore her blouse and pressed her chest. As far as this allegation is concerned, when according to the complainant, appellant no.3 had embraced her in such condition, it was not possible for the appellant no.2 to tear her blouse and press her chest. In the FIR, the complainant does not state that the appellant no.3 embraced her from behind. On reading the FIR, it

appears that appellant no.3 embraced her from the front side in which case it was not possible for the appellant no.2 to do the act as stated by the complainant in the FIR.

6 Another important aspect which is to be noted is that firstly, the appellant no.1-Aditi Shinde lodged FIR being C.R.No.106 of 2017 against the complainant in the present case. Thereafter, the complainant in the present case has lodged C.R.No.107 of 2017 against the present appellants. In FIR, i.e. C.R.No.106 of 2017, the appellant no.1-Aditi Shinde (Complainant) has stated that on 16.3.2017 at 12.15 am , she was informed that persons from the Municipal Corporation were demolishing the property in their land hence, they went to the spot. By that time, Corporation officers and workers completed demolition and were leaving the spot. The Appellant No.1 in her FIR stated that Manjula Patel i.e. the complainant in the present case along with others started throwing her belongings. When the appellant no.1-Aditi Shinde questioned Manjula Patel and others about what they were doing, they abused her and assaulted her with fists blows.

Manjula Patel assaulted Aditi Shinde with wooden log. Umesh Patel assaulted Aditi Shinde with an iron rod. On account of assault, Aditi Shinde sustained injury to her hand. It is noticed that medical reports of Aditi Shinde in C.R.No.106/2017 shows that she had sustained fracture of hand. Looking to this fact, we find much merit in the submission of the learned counsel for the appellants that the FIR No.107/2017 was lodged by Manjula Patel against the appellants as counter blast to the FIR No.106/2017 lodged by Aditi Shinde. Thus, we are of the opinion that even the allegation under Section 3(1)(xi) has been falsely made against the appellant nos.2 and 3 by way of counter-blast. As stated earlier, appellant no.2 is husband of the appellant No.1-Aditi Shinde and the appellant no.3 is brother of Aditi Shinde.

7 Looking to all the above facts, we are of the opinion that C.R.No.107 of 2017 has been lodged by making false allegations against the appellants by way of counter blast to C.R.No.106 of 2017 which was lodged by appellant no.1 against the complainant-Manjula Patel in

C.R.No.107 of 2017. Looking to the above facts, we are inclined to grant anticipatory bail to the appellants, hence, the following order:

(I) In the event of arrest, each of the appellants be released on bail in the sum of Rs.25,000/- with one or two sureties to make up the said amount and PR Bond of like amount.

(II) Each of the appellants shall report to Mira Road Police Station every day from 26.7.2017 for a period of 10 days from 11 a.m. to 1 p.m. and thereafter as and when required by the Investigating Officer.

8 Appeal is allowed in the above terms.

(SANDEEP K. SHINDE, J) (SMT. V.K. TAHILRAMANI, J)