

Vidya Amin.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 456 OF 2018

Balraje @ Raviraj Vithal Gate ... Appellant
vs.
The State of Maharashtra & Anr. ... Respondents

**CRIMINAL APPLICATION NO. 1074 OF 2018
IN
CRIMINAL APPEAL NO. 456 OF 2018**

Kalpana Madhukar Gaikwad ... Applicant
in the matter between
Balraje @ Raviraj Vithal Gate ... Appellant
vs.
The State of Maharashtra ... Respondent

CRIMINAL APPEAL NO. 457 OF 2018

Maruti Ramchandra Gate ... Appellant
vs.
The State of Maharashtra & Anr. ... Respondents

Mr. S.C. Gupte, Senior Advocate i/b. Sameer M. Nangaonkar,
Advocate for the appellants.
Mr. Rahul Shinde i/b. Sharad T. Bhosale, Advocate for the
applicant and respondent no. 2.
Mrs. M.H. Mhatre, APP for the respondent-State.

**CORAM: Mr.S.S. SHINDE &
Mrs.MRIDULA BHATKAR, JJ..
DATED: 4th October, 2018**

P.C. :

1. The appellant herein is apprehending the arrest in C.R.
No. 102 of 2018 registered with Vairag Police Station, District
Solapur. Therefore, he approached to the Court of Additional

Sessions Judge, Barshi for seeking protection by invoking provisions of Section 438 of Cr. P.C. The learned Judge, rejected the application filed by the appellant on merits as well as placing reliance upon Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, by the impugned order. Hence, this Appeal under section 14A of the Scheduled Castes and Scheduled Tribes Act.

2. Heard the learned senior counsel appearing for the appellants, learned APP appearing for the State and the learned counsel appearing for respondent no. 2. At the outset, it would be appropriate to reproduce herein below Section 18A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989:

“18A. (1) For the purposes of this Act, -

(a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or

(b) The investigating officer shall not require approval for the arrest, if necessary, of any person,

against whom an accusation of having committed an offence under this Act has been made and no procedure other than provided under this Act or the Code shall apply.

(2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.”

3. In the light of the aforesaid provision, in particular sub-section (2) of Section 18 of the said Act, it is not possible to entertain the prayers of the appellants.

4. In that view of the matter, we are unable to persuade ourselves to grant any relief to the appellants by invoking provisions of Section 438 of Cr. P.C. Hence, both the Appeals stand dismissed.

5. Criminal Application filed for intervention is also accordingly disposed of.

(MRIDULA BHATKAR, J.)

(S.S. SHINDE, J.)