

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

CRIMINAL APPEAL NO. 43 OF 2018

Shri Raosaheb Vasantrao Jadhav. ..Appellant.

V/s.

The State of Maharashtra. ..Respondent.

Mr. Rameshwar N. Gite, advocate for appellant.

Mr. Sachin Gite, advocate for respondent No. 2.

Mr. Y.M. Nakhwa, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : DECEMBER 10, 2018.

P. C. :

1 Heard the learned Counsel for the appellant and the learned APP for State.

2 This is an appeal under section 14(A) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989. It is the case of the prosecution that on 27/12/2017 Kedabai Madhukar Barde lodged a report at the Malegaon Taluka Police Station alleging therein that her mother-in-law is the owner of Gat No. 85/A/1, 2 situated in village at Mouje Shirsane. That the present appellant Raosaheb Vasantrao Jadhav has illegally obtained possession of the said land and that there is litigation pending in the High Court as well as in other courts. It is

Talwalkar

alleged that on 26/12/2017 the first informant had been to village Soudane to meet her mother-in-law at about 1 p.m.. The present appellant had been to the house of her mother-in-law. He was accompanied by his two brothers. That the door was closed and he had kicked the door to take entry. He had threatened her mother-in-law that she shall withdraw the court case from the High Court or else, they would set her ablaze. The first informant had requested the appellant to talk to her and not to abuse her mother-in-law. At that time, the appellant and his brothers had abused her mother-in-law by referring to her caste as Bhill and had also further threatened of dire consequences. They had also attempted to hold the hands of the complainant and pulled the veil. On the basis of the said report, Crime No. 323 of 2017 is registered at Malegaon Taluka Police Station against the appellant for the offence punishable under section 294, 354A, 452, 504, 506 read with section 34 of the Indian Penal Code and Section 3(1)(w)(i) of the Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act.

3 The learned Counsel for the appellant has submitted that it is true that Suman N. Barde i.e. the mother-in-law of the first informant was the owner of Gat No. 85/A/1, 2. On 28/12/2007 the land was purchased by the present appellant vide registered sale deed. Thereafter, in the year 2014, Suman Barde and 5 others filed Adivasi

Tenancy Case before Tahasildar alleging therein that she belongs to Bhill community and that there was no permission from the Collector to sell the land and hence, the land shall be restored to her. The said proceedings were allowed and therefore, there were multiple litigations between the parties.

4 The appellant herein had challenged the Judgment of the Divisional Commissioner dated 13/11/2017 before the Hon'ble Minister for Revenue by filing revision application. The revision application was dismissed by the Minister thereby upholding the Judgment of the Divisional Commissioner. The said order passed by the Minister was challenged by the appellant by filing Writ Petition No. 33732 of 2017. No effective orders are passed therein. The allegation in the FIR is that the appellant was intimidating the old woman to withdraw the petition filed in the High Court. There is no question of the mother-in-law of the informant to file appeal in the High Court since it is filed by the appellant. That the respondent has appeared in the said Writ Petition by filing vakalatnama. The learned Counsel for the appellant further submits that at the time when Adiwasi Tenancy case was filed, there was no caste certificate and therefore, he had challenged the caste claim of the first informant. In all probabilities, she was belonging to the reserved category. However, there was no record to that effect.

5 The learned Counsel for the respondent vehemently submits that the respondent rather belongs to that Bhil caste.

6 The Caste Certificate tendered by the Complainant before the Investigating Officer is the Certificate issued by the Sub-divisional officer in her maiden name on 10/4/2014. Be that as it may, the very fact that it is the appellant who has filed Writ Petition in the High Court. There was no occasion for the appellant to threaten the complainant and/or mother-in-law to withdraw the case in the High Court. It is in these circumstances that the order granting interim relief dated 24/1/2018 deserves to be confirmed on the same terms and conditions.

7 The appeal is allowed and disposed of on the above terms.

[SMT. SADHANA S. JADHAV, J.]