

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.60 OF 2018

YASHWANT KASHINATH KUTHE)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Mr.Gaurav Parkar, Advocate for the Appellant.

Mr.S.V.Gavand, APP for the Respondent – State.

Mr.K.G.Jamdar, Police Sub-Inspector, Kolhad Police Station,
District Raigad, present in court.

CORAM : A. M. BADAR, J.

DATE : 27th JULY 2018

ORAL JUDGMENT :

1 By this appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellant/accused is challenging the order dated 15th January 2018 passed by the Additional Sessions Judge, Raigad-Alibaug, below Exhibit 1 in Criminal Miscellaneous Application No.945 of

2017, by which application for anticipatory bail moved by the appellant/accused in Crime No.78 of 2017 registered with Nagothane Police Station under Section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as well as under Section 504, 506 read with 34 of the Indian Penal Code, came to be rejected. None appeared for respondent no.2 despite service.

2 Admit. Heard forthwith, by consent of parties.

3 On 13th December 2017, Crime No.78 of 2017 came to be registered against the appellant/accused, whose wife Smita happens to be Sarpanch, and against one another, at the instance of one Sheetal Adsule, for the offence punishable under Section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as well as under Section 504, 506 read with 34 of the Indian Penal Code with Nagothane Police Station. Averments against the appellant/accused and the co-accused are to the effect that on 13th December 2017 when First Informant

Sheetal was present near her house, Sarpanch Smita Kuthe (co-accused) as well as her husband Yashwant Kuthe and Gram Sevika Supriya Patil came there. The First Informant asked them as to why they had not removed the road built in cement concrete in their lane. Upon that, co-accused Smita abused her in filthy language. Similarly, co-accused Supriya Patil also abused her in filthy language. The appellant/accused gave casteist abuses to the First Informant and intimidated her.

4 Heard the learned counsel appearing for the appellant/accused. He argued that the First Information Report (FIR) is politically motivated and co-accused Smita has already been released on anticipatory bail. The learned APP fairly admitted that prosecuting agency has also submitted “A Summary” Report as during investigation it transpired that the complaint came to be lodged falsely because of political rivalry.

5 In this view of the matter, as during investigation it transpired that the complaint itself is false and motivated, bar of

Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act will not be applicable to the instant case. The appeal, therefore, deserves to be allowed. Hence, the order :

ORDER

- i) The appeal is allowed.
- ii) The impugned order dated 15th January 2018 passed by the Additional Sessions Judge, Raigad-Alibaug, below Exhibit 1 in Criminal Miscellaneous Application No.945 of 2017, is quashed and set aside.
- iii) The application for anticipatory bail of the appellant/accused in Crime No.78 of 2017 for the offence punishable under Section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as well as under Section 504, 506 read with 34 of the Indian Penal Code registered with Nagothane Police station, is allowed.

iv) In the event of arrest of the appellant/accused in Crime No.78 of 2017 for the offence punishable under Section 3(1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as well as under Section 504, 506 read with 34 of the Indian Penal Code registered with Nagothane Police station, the appellant/accused be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in like amount.

v) The appeal is accordingly disposed of.

(A. M. BADAR, J.)

Arti
Vilas
Khatate

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