

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.74 OF 2017

Ramakant Vasant Kamble, Age 38 years,
Occ.Business, R/o.Survey No.261,
Pandav Nagar, Pune-16.

Appellant

versus

1. The State of Maharashtra.
2. Bharat Vitthal Deshmukh, R/o.Galli No.14,
Sukhsagar Nagar Part-I, Katraj, Pune-46.
3. Bhagwan Narayan Waje,
R/o.House No.1606, Alibagkar Maharaj Fad,
S.No.6/1/2B, Alandi Devachi, Tal.Khed,
Dist.Pune-412105.
4. Sagar Subhash Khopade,
R/o.Galli No.14, Sukhsagar Nagar Part-1,
Katraj, Pune-46.

Respondents

Mr.Shailesh Kharat for appellant.
Mr.Aniket Nikam with Mr.Ashish Satpute for respondent nos.2 to 4.
Mrs.M.M.Deshmukh, APP, for respondent no.1-State.

CORAM : S.C.DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.

DATE : 7th March 2018

PC :

1. The order under challenge is on an application for anticipatory bail. The appellant before us is the original complainant. It is stated by learned APP as also Mr.Nikam appearing on behalf of respondent nos.2 to 4 that during pendency of this appeal, the charge sheet has been filed in the competent Criminal Court on completion of investigations.

2. We have perused the copy of first information report/CR No.175 of 2016 annexed at pages 16 to 21 of the paper book. We have also perused the impugned order, copy of which is annexure-B, page 22 of the paper book. Prima facie the understanding of learned Judge and reflected from paragraphs 8 and 9 of the order under challenge is not accurate given the object and purpose of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC and ST Act' for brevity). Secondly, his finding that the persons should be acquainted with each other or known to each other and for sufficiently long time to carry out any offence and punishable under the SC and ST Act, is also not in consonance with the provisions, object and purpose sought to be achieved by SC and ST Act. We are sorry to note that the Presiding Officers and exercising powers as Judges presiding over the Special Courts and Exclusive Courts dealing with the offences of atrocities, proceed on these lines. Section 438 of Code of Criminal Procedure, 1973 does not apply to persons committing an offence under the SC and ST Act. Secondly, by Section 20 of SC and ST Act it is given overriding effect. Thirdly and importantly, the Special Courts and Exclusive Courts and the Presiding Officers should bear in mind that the SC and ST Act has been enacted way back in the year 1989 but had to be amended also because of the view taken from time to time by the Courts of law. Those in-charge of interpreting the provisions of SC and ST Act should first note the statement of objects and reasons of the Act of 2016 and also of the original enactment. It is only because the members of the Scheduled Castes and Scheduled Tribes have asserted their rights and against the practice of untouchability, that they have become irritants for the mighty and dominants. It is in

these circumstances that there has been an increase in the disturbing acts of commission of atrocities. Once all of these are made punishable offences, then we do not expect that an application and the one made in the instant case, should be dealt with and decided so casually.

3. By clarifying that none of these observations and particularly those found in paragraphs 6 to 8 of the order under challenge, shall influence the outcome of the criminal case pending before the Trial Court nor any application seeking anticipatory bail, we dispose of this appeal with these observations. All contentions of both sides on merits of the charges are kept open.

(PRAKASH D. NAIK, J.)

(S.C.DHARMADHIKARI, J.)

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