

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 979 OF 2017

1) Mr.Ravindra Janardhan Kurlekar

2) Mr.Mahadev Tukaram Kadam

3) Mr.Sanjay Bajarang Jadhav

All R/o. Govt. printing press, Gangapuri

Wai Tal-Wai, Dist- Satara.

... **Appellants**

V/s.

1)The State of Maharashtra

Through Wai Taluka Police Station

Tal.Wai, Dist.-Satara.

2) Atul Aananda Jekate

serving at-Govt.printing press,

Gangapuri, Wai Tal-Wai, Dist-Satara

... **Respondents**

Mr.Rahul Keshav Dhaygude for the appellants.

Ms.Anamika Malhotra, APP for the respondent/State.

Ms.Vrishali Rakesh Raje for respondent no.2.

CORAM : A.M.BADAR J.

DATED : 27th JUNE 2018.

ORAL JUDGMENT :

1. Heard.

2. Admit.
3. Heard finally with consent of the parties.
4. The appellants are accused in Crime no.300 of 2017 registered at the instance of respondent no.2 Atul Aananda Jekate at Police Station, Wai, District Satara for offences punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code as well as under Section 3(1)(r)(s), 3(1)(za), 3(2)(5A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (S.C.S.T. (Prevention of Atrocities) Act)) as well as under Section 7(1)(d) of the Protection of Civil Rights Act.
5. Facts leading to institution of present appeal can be summarized thus;
 - (a) on 3rd November, 2017, the FIR lodged by Atul Aananda Jekate, Binder in Govt. Printing Press came to be recorded by officers of the Police Station, Wai. Averments therein, in nutshell are to the effect that the first informant belongs to scheduled caste. He is serving in the binding department of the Govt. Printing Press as Binding Assistant. Accused persons i.e. appellants viz. Ravindra Janardhan Kurlekar is working as

watchman. Accused no.2 Mahadev Tukaram Kadam is working as Foreman, Accused no.3 Sanjay Bajarang Jadhav is working in DTP Department whereas accused no.4 Milind Shantaram Shinde is working as Manager of the Govt. Printing Press.

- (b) The first informant averred that in the year 2015, co-employee Namdeo Bambale lodged complaint against accused/appellant no.2 Kadam, accused/appellant no.3 Jadhav as well as against Kokil, Khairmode, Konde to the Complaint Redressal Committee of the office. Then in the meeting convened by the Management on 6th November, 2015, it was resolved that unnecessary trouble will not be given to the employees and written undertaking was taken from the concerned.
- (c) The first informant further averred that since then the appellant/accused no.1 Ravindra Kurlekar as well as co-accused/appellants no.2 & 3 Kadam, Jadhav became angry and after 15 to 20 days, the appellant/accused Kurlekar questioned him as to why written undertaking was obtained and gave casteist abuses to him.
- (d) The first informant Atul Jekate further averred that threatening was given to him at the General meeting. He had

stated about specific incident dated 11th January, 2017 and alleged that when appellant/accused no.1 Ravindra Kurlekar was watchman at the gate, he insisted for checking bag of the first informant and upon questioning, casteist abuses were given by the appellant/accused apart from giving pushes.

- (e) The first informant further averred that on 14th January, 2017, there was function of distribution of “Til Gul” and at that time accused Milind Shinde uttered that this should not have happened. The first informant further averred that when he was going to the office of the appellant/accused taunted him by uttering his caste and accused persons restrained him from drinking water. Accused/appellant no.2 Kadam has asked him not to drink from Aqua Guard. Accused Milind Shinde threatened him by casting threat of transfer, suspension, false implication in the theft case as well as of damaging his CR.
- (f) These are in nutshell allegations against the accused persons reflected in the FIR which resulted in registration of crime in question.

6. I heard the learned Advocate appearing for appellants/accused. He drew my attention to several documents which are concerned with

the crime in question and argued that the FIR and resultant action are patently false and motivated. The incident of 11th January, 2017 resulted in lodging of a report of non-cognizable case by the appellant/accused. It is argued that the FIR had reported the incident of 11th January 2017 to the Manager of the Press wherein he has not uttered about anything which would attract penal provisions of S.C.S.T. (Prevention of Atrocities) Act. The learned Advocate further argued that appellant/accused no.1 Ravindra Kurlekar had lodged complaint in respect of the incident of 11th January, 2017 to the management and the departmental enquiry was initiated against the first informant Atul Jekate. The learned Advocate further argued that the co-accused are witnesses in the said department enquiry and in the statement of the delinquent employee i.e. first informant Atul Jekate was recorded under the relevant service Rules. On completion of evidence of the management, it is not revealed that any casteist abuses or threatening was given to the first informant by appellant/accused no.1. With this, the learned Advocate argued that as the FIR appears to be motivated and false, bar of Section 18 of S.C.S.T. (Prevention of Atrocities) Act is not applicable to the case in hand and therefore, the appellant/accused is entitled for anticipatory bail.

7. The learned APP opposed the application and submitted that there is no delay in lodging the FIR because initially complaint application was under enquiry with Police Station, Wai and after concluding enquiry the FIR came to be registered. The learned APP further submitted that so far as accused no.4 Milind Shinde is concerned prosecution is going to file NC "final report". The CCTV camera not in functional condition therefore that evidence is not available.

8. I also heard, the learned Advocate appearing for respondent no.2/the first informant Atul Jekate at sufficient length of time. Placing reliance on affidavit of the first informant, the learned Advocate contended that soon after the incident in question, the first informant had lodged the complaint against accused persons on 19th January, 2017 itself and therefore the FIR was not belated. The learned Advocate further argued that the first informant had insisted for obtaining written undertaking from all concerned in the complaint lodged by co-employee Bambale and therefore as the co-accused were required to furnish undertaking in writing, the appellants/accused aggrieved and committed the crime in question. The learned Advocate further argued that appellant/accused no.1 Ravindra Kurlekar has

chequered history of crime and there are several complaints against him. My attention is drawn to the report of the Superintendent of Police dated 14th October, 2008, addressed to the manager, Govt. Printing Press, Wai in this regard.

9. I have carefully considered the submissions so advanced and also perused the record made available. In the matter of ***Dr. Sibhash Kashinath Mahajan Vs. The State of Maharashtra and anr.***¹ dated 20th March, 2018. The relevant portion of Paragraph 59 reads thus;

“ 59. There can be no dispute with the proposition that mere unilateral allegation by any individual belonging to any caste, when such allegation is clearly motivated and false, cannot be treated as enough to deprive a person of his liberty without an independent scrutiny. Thus, exclusion of provision for anticipatory bail cannot possibly, by any reasonable interpretation, be treated as applicable when no case is made out or allegations are patently false or motivated. If this interpretation is not taken, it may be difficult for public servants to discharge their bona fide functions and, in given cases, they can be black mailed with the threat of a false case being registered under the Atrocities Act, without any protection of law. This cannot be the scenario in a civilized society. Similarly, even a non public servant can be black mailed to surrender his civil rights. This is not the intention of law. Such law cannot stand judicial scrutiny. It will fall foul of guaranteed fundamental rights of fair and reasonable procedure being followed if a person is deprived of life and liberty. Thus, literal interpretation cannot be preferred in the present situation.”

¹Criminal Appeal No.416 of 2018

As held by the Hon'ble Apex Court in the said matter, there is no absolutely bar for grant of anticipatory bail in case under Atrocities Act, if no *prima facie* case is made out, where on judicial scrutiny the complaint is found to be *prima facie malafide*. It is further observed by the Hon'ble Apex Court that to find false implication of the cognizance of preliminary enquiry may be conducted by the District Superintendent of Police in order to find out whether the case is made out under the Atrocities Act and the public servant can be arrested only after approval of the appointing authority.

10. In the case in hand, the first informant Atul Jekate has lodged the complaint application on 19th January, 2017 principally in respect of the incident dated 11th January, 2017. In the said complaint, the first informant has stated that appellant/accused no.1 Ravindra Kurlekar, who is working as watchman had stopped him on the date and attempted to put some articles in his bag and when he prevented the watchman Kurlekar, he gave casteist abuses. It is further reported in the said complaint though the accused persons are conspiring against him and they are preventing him from drinking the water at the place of employment because he belongs to scheduled caste. He further stated that accused persons are having grudge against him as he was the

witness in the complaint earlier lodged by Namdeo Bambale.

11. It appears that after enquiry the said complaint, the FIR in detailed came to be registered on 3rd November, 2017 wherein some more allegations are levelled which I have already reproduced in the opening paragraphs of this judgment.

12. In the light of the allegations made in the FIR, if other documentary evidence is concerned, then it appears that the first informant Atul Jekate on 11th January, 2017 i.e. on the date of incident itself lodge complaint of the incident to the Manager of the Govt. Printing Press. Perusal of the said complaint shows that it does not contained any material which would attract penal provisions of S.C.S.T. (Prevention of Atrocities) Act. What is stated in the said complaint is that the complaint which was lodged immediately, is to the effect that when the first informant Atul Jekate was returning house on completion of duty, appellant/accused no.1 Kurlekar gave pushes to him and threatened to kill him or else that of false implication in theft case. This factor assumes importance while determining whether allegations are patently false or motivated.

13. The said incident of 11th January, 2017 resulted in lodging of

report of NC case by appellant/accused no.1 Ravindra Janardhan Kurlekar. He filed separate complaint dated 12th January, 2017, with the Manager of the Govt. Printing Press. This complaint reflected the fact that as the Gateman on duty, he attempted to check bag of the first informant Atul Jekate and therefore the first informant Jekate assaulted him and threatened him that appellant/accused no.1 Ravindra Kurlekar would be falsely implicated in the offence of S.C.S.T. (Prevention of Atrocities) Act. The Management decided to conduct departmental enquiry against the first informant Atul Jekate and accordingly the charge was framed and evidence of the Manager came to be recorded by the enquiry officer. The co-accused appellant no.2 Mahadev Kadam was one of the witness of the management in the departmental enquiry against the first informant Atul Jekate and his evidence was recorded on 30th October, 2017.

14. After completion of recording of evidence of witnesses for the management, statement of delinquent employee i.e. the first informant Atul Jekate came to be recorded by the enquiry officer. The evidence of appellant/accused no.1 Ravindra Kurlekar was put up to the first informant Atul Jetke while recording his statement. The evidence of 11th January, 2017 was put up to the first informant Atul Jekate while

recording his statement under Rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules 1979. In reply to this question, regarding the incident of 11th January, 2017, the first informant Atul Jekate has stated that Kurlekar had called him and asked him to give his bag for checking and pushed him and therefore he has not given the bag to appellant/accused no.1 Kurlekar. It is thus clear that even during the departmental enquiry against him, it was not the stand of the first informant Atul Jekate that casteist abuses were given to him by the appellant/accused or that the appellant/accused had committed any offence punishable under S.C.S.T. (Prevention of Atrocities) Act.

15. So far as, contention that the accused persons were aggrieved because of insistence of the first informant Atul Jekate to obtain their written undertaking in respect of complaint of Namdeo Bambale is concerned, report of Mr. A. Y. Dudhgaonkar, the Manager of Govt. Printing Press, Wai on the said complaint is important. This enquiry officer himself belongs to Scheduled Caste. He reported that said Namdeo Bambale is arrogant employee who indulged in cantankerous behaviour with the co-accused employees as well as head of the department. Despite repeated memos there is no improvement in his behaviour, but with a hope that his conduct will be improved in future,

the reporting authority who himself belongs to the scheduled castes has condoned his serious mistakes. The Manager further reported that said Namdeo Bambale is not interested in doing work but is interested in making complaints. It is further reported that the co-accused are the President and Secretary of Employees Association and therefore they are holding meetings for solving the problems and the object of such meetings are not to lodge complaint against said Namdeo Bambale. When the head of the office who himself belongs to scheduled caste giving such report in respect of Namdeo Bambale, it does not stand to reason that written undertaking insisted in the matter of complaint by the first informant would have triggered such incident.

16. Suffice to state that scrutiny of material on record reveals that allegations against co-workers/accused by the first informant are patently false or motivated. Such allegations cannot be considered as sufficient material to deprive the appellants/accused of their liberty.

17. So far as, the alleged criminal history of appellant/accused no.1 Ravindra Kurlekar is concerned, the same was prior to joining the service in the Govt. Printing Press. Despite that criminal history, he was found to be fit for public employment. It is not pointed out that the appellant/accused no.1 Kurlekar is involved in any offence committed

against the co-workers or employees of the State.

18. In view of the foregoing discussion, though the learned Advocate appearing for respondent no.2 / the first informant has placed reliance on *Manju Devi Vs. Onkarjit Singh Ahluwalia @ Omkarjeet Singh and ors.*¹ to submit that the relief of anticipatory bail cannot be granted in such cases, I am of the considered opinion that Bar of Section 18 of S.C.S.T. (Prevention of Atrocities) Act is not applicable to the case in hand.

19. In this view of the matter, custodial interrogation of the appellants/accused no.1 to 3 are not warranted considering the nature of allegations against him. Therefore, the order;

::ORDER::

- (i) The appeal is allowed.
- (ii) The impugned order rejecting anticipatory bail application of the appellants/accused no.1 to 3 is quashed and set aside.
- (iii) In the event of their arrest in CR No.300 of 2017 registered with Wai Police Station, the appellants /

¹(2017) 13 SCC 439

accused no.1 to 3 be released on bail on their executing P.R. Bond in the sum of Rs.25,000/- each and on furnishing one or two solvent sureties in the like amount by each of them.

- (iv) As a condition of this order, the appellants shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the such facts to the Court or the any police officer.
- (v) The appellants shall cooperate the Investigating Officer by attending him as and when directed by him for the purpose of investigation.
- (vi) The appeal is disposed of accordingly.

(A.M.BADAR J.)

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