

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1361 OF 2018

Abhijit Suresh Bhoir. ..Appellant.

V/s.

The State of Maharashtra & anr. ..Respondents.

Mr. Satyavrat Joshi I/b. Mr. Nitesh J. Mohite, advocate for appellant.

Mr. Amit A. Katamnaware, advocate for respondent No. 2.

Mr. S.S. Pednekar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : DECEMBER 3, 2018.

P. C. :

1 Heard the learned Counsel for the appellant, learned APP and the learned Counsel for the original complainant. Perused the first information report.

2 The appellant herein is apprehending his arrest in Crime No. 236 of 2018 registered at Kinhavali Police Station, Dist.-Thane for offence punishable under section 353, 352, 323 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that Ms. X happens to be officiating as medical officer at Primary Health Centre, Dolkhamb, Taluka-Shahapur. On 24/9/2018 in the morning at about 8 a.m., the applicant had been to the primary health center alongwith two women who were

Talwalkar

patient. The complainant had examined them and prescribed medicine. The applicant had made an attempt to get himself introduced to the doctor. In the afternoon two known and one unknown person had approached the doctor and had informed her that they belong to Shivsena party and they have been sent by the present applicant. The doctor had informed them that she belongs to scheduled caste and she is the daughter of Mrs. X. Thereupon, she was abused by known person and one unknown person with reference to her caste. Thereafter, the doctor had lodged a report at the police station.

4 It is a matter of record that the applicant had visited the primary health center in the morning but he was not present on the spot when the second incident had occurred. However, he is being prosecuted on the ground that two persons had informed the doctor that they have been sent by the present applicant.

5 The learned Counsel for the respondent vehemently submitted that by virtue of section 8 of Schedule Castes and Scheduled Tribe (Prevention of Atrocity) Act, 1989, presumption has to be drawn that the said persons had abused the doctor at the behest of the present applicant and that he had abetted the commission of the offence.

6 As against this, the learned Counsel for the appellant submits

that the appellant has been falsely implicated and the words allegedly used by co-accused cannot be considered as gospel truth at this stage and the applicant cannot be prosecuted on the basis of the said allegations.

7 Prima facie, there is no material to show that the applicant had in fact abused or insulted the first informant by referring to her caste. There is no overt act attributed to the applicant and in view of this, the applicant deserves to be enlarged on bail and the interim order passed by the vacation court deserves to be confirmed.

8 Hence, following order is passed :

ORDER

(i) In the event of arrest in Crime No. 236 of 2018 registered at Kinhavali Police Station, Dist- Thane, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.

(ii) The applicant shall report to the office of DYSP every Sunday between 10.30 a.m. to 12 noon till the filing of the charge-sheet.

(iii) The applicant shall not tamper with the evidence.

9 The appeal is allowed and disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]