

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

CRIMINAL APPEAL NO.1518 OF 2018

1. Mrs. Geetika Narayan Hemnani
- 2 Mr. Kashish Narayan Hemnani

Both Residing at Daya Meher,
Behind Water Tank,
Mahatma Nagar, Nashik

.... Appellants

Vs.

1. The State of Maharashtra
Thru' Gangapur Road Police Station,
Nashik.

2. Smt. Kristan Jothanpari Pachau
Age : Adult, Occ.: Business
Mona Lisa Cottage,
Nongkynrih, Laitumkhrach,
Shillong, East Khasi Hills,
Meghalaya – 793 003

.... Respondents

Mr. Aniket U. Nikam, a/w Mr. Filji Frederick a/w Mr. Shubham Mittal a/w Ms. Prateeti Thakar I/by F.F. & Associates for the Appellant.

Mr. S.H. Yadav APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 20th December 2018

P.C.:

1 Heard the respective counsel.

2 This is an appeal under Section 14A of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989.

3 It is the case of the prosecution that on 30th October 2018, the complainant, who was a resident of Nashik lodged a report at the police station alleging therein that she hails from Shillong (Meghalaya). She was married to Sanjay Tikamdas Mordani, who belonged to Sindhi caste. According to her, she is an aboriginal Mizo Sect. That on 28th September 2014, her husband had expired. She has to struggle for survival of her two daughters and one son. That Sindhi society had accepted the complainant into their society. She was well acquainted with her relatives such as Ramesh Tahelram Parwani. They had decided to reside permanently in Nashik. One of the friend of Ramesh Parwani namely Narayan Hemnani happens to be the builder by profession and is into the business of constructing

the houses. That they had offered a flat in one of his project to her husband during his lifetime. They had approved the building plans and then had decided to purchase flat number 502, admeasuring 2915 square feet at the rate of Rs.5,280/- per square feet. The token amount of Rs.5,00,000/- was paid to the builder. That during the period May 2013 to December 2013, an amount of Rs.40,00,000/- was paid to the builder in cash. During the intervening period, her husband had fallen ill and he succumbed to his illness on 28th September 2014.

4 She has further alleged in the F.I.R., that she had approached Mr. Narayan Hemnani and had requested him to execute the sale-deed in her favour. He evaded to oblige. She alongwith Mr. Parwani had approached him on several occasions and had requested him to execute the sale-deed or to refund the amount that was paid to him. That on 16th December, 2017 she had again visited the said site and upon enquiry, she had learnt that the Mr. Narayan Hemnani had created third party interest in the said flat, rather it was sold. When Mr. Hemnani was confronted with the said fact, he had issued

nine cheques of Rs.5,00,000/- on 11th September 2018. She had returned to Shillong and had presented the said cheques for encashment. She was informed by the bank authorities that the cheques were issued from a dormant account. Thereafter the complainant was sure that she has been cheated, since it had transpired that the said account has been deactivated. The complainant had also learnt that several people have filed complaints/civil suits against Mr. Hemnani as he had not abided by the agreements executed in their favour. The complainant also named the said consumers that is Mr. Vinayak Waghmare, Anil Madhukar Patil, Robin Joseph and Anil Balaram Patil. Since the complainant wanted to return to Shillong, she had approached Mr. Hemnani and had requested him to return the money since she has no time and due to paucity of funds, she would not be able to initiate legal proceedings against him. It is alleged that at that stage, Mr. Hemnani had abused her by referring to her caste, more particularly by referring to her as “Adiwasi girl”. According to her, she had booked a flat in Zion Plaza and she has been cheated by Mr.

Hemnani and then also abused by referring to her caste.

5 The appellant no. 1 is the mother of appellant no. 2. On the basis of report filed by the complainant- Smt. Krishtan Jothapari Pachau, Crime No. 268 of 2018 is registered at Gangapur Road Police Station, Nashik, for the offences punishable under Sections 420, 406, 504 read with 34 of Indian Penal Code and 3(1)(r) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against Narayan Hemnani, who happens to be appellant in Criminal Appeal No.1487 of 2018. That Mr. Narayan Hemnani was arrested on 30th October 2018 and has been enlarged on bail by this Court vide order dated 19th December 2018.

6 It is alleged by the complainant that she had met appellant no.1 and her husband at Taj Hotel in Nashik. As far as the present appellants are concerned the offences under the Atrocities Act are not made out, since the complainant had met Narayan Hemnani and there are specific allegations against him that he had uttered abusive words towards the complainant by referring to her

caste. It is in these circumstances and for the reasons assigned in the order dated 19th December 2018 granting bail to the husband of appellant no. 1, the present appellants deserves pre-arrest bail. Hence, the following order.

ORDER

- i) The appeal is allowed and stands disposed of.
- ii) In the event of arrest, the appellants be released on bail on furnishing P.R. bonds in the sum of Rs.50,000/- each with one or more solvent sureties in the like amount.
- iii) The appellants shall report to the concerned police station as and when called by Police and co-operate the investigating agency.
- ix) Parties to act on authenticated copy of this order.

(Smt. Sadhana S. Jadhav, J)