

Anand

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

CRIMINAL APPEAL NO. 486 OF 2018

Pradip Ashokrao Shinde .Appellant
Age : 38 years, Occu : Government Service
Residing at 1398/8 'E' Ward, Rajarampuri,
Kolhapur.

Vs.

1. The State of Maharashtra .Respondents
(At the instance of Kagal Police Station,) District Kolhapur vide C. R. No. 38 of 2018)
2. Smt. Rajani Hanumant Pandagale
Age : 30 years, Occu : Service
Residing at Jaising Park, Kagal,
Taluka – Kagal,
District - Kolhapur

Mr. V. V. Purwant, Advocate, for the Appellant
Mr. S. V. Gavand, APP, for the Respondent No. 1 – State
Mr. D. H. Pawar, Advocate, for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.

DATE : 03.04.2019

P.C.

. Heard learned counsel for the parties.

2. Admit.

3. Respondents waive service through their respective

counsel. By consent, the Appeal is taken up for final disposal.

4. By this Appeal, the Appellant has impugned the Order dated 05.04.2018 passed by the learned Additional Sessions Judge, Kolhapur in Cri. B. A. No. 226 of 2018, by which the Appellant's Anticipatory Bail Application was rejected.

5. Learned counsel for the Appellant submitted that the Appellant has been falsely implicated in the said case. According to the learned counsel for the Appellant, prior to the lodging of the FIR / Complaint (by the Respondent No. 2), the Appellant had made a representation to the Tahsildar, Sub Divisional Officer and Collector, Kolhapur stating therein, that the Tahsildar – Mr. Kishor Ghatage was harassing him and had, in fact, instigated the Respondent No. 2 to lodge a false case under the Atrocities Act as against the Appellant. He relied on the letter dated 15.03.2018 which is at Exh.A on page No. 18 of the Appeal. He further submitted that even the Appellant's wife had written a letter to the authorities stating that the Respondent No. 2's husband and brother had threatened them with dire consequences and as she apprehended danger to her and her family's life. The

said letter dated 13.03.2018 sent by the Appellant's wife is at Exh.B. Learned counsel for the Appellant submits that taking the prosecution case as it stands, no offences as alleged under Section 354C or under the Atrocities Act is disclosed qua the Appellant.

6. Learned counsel for the Respondent No. 2 opposes the Appeal and submitted that no interference is warranted in the impugned order dated 05.04.2018. He submitted that the FIR discloses the commission of the offences, both under the Indian Penal Code as well as under the Atrocities Act.

7. Perused the papers. It appears that prior to the registration of the FIR dated 17.03.2018, the Appellant had made a representation to different authorities, alleging that the Tahsildar was harassing him and that he had learnt that the Tahsildar – Mr. Kishor Ghatage had called the Respondent No. 2 to his office on 08.03.2018 and had asked her to lodge a false complaint against the Appellant under the Atrocities Act; that the Appellant should be sent to jail; and that he would take care of the police. The said letter dated 15.03.2018 was dispatched to various authorities on 16.03.2018. The Appellant's wife had also

sent a letter dated 13.03.2018 to the authorities, with regard to the threats extended by the Respondent No. 2 and as she apprehended danger to her and her family's life. The said letter dated 13.03.2018 was dispatched on 16.03.2018. On 17.03.2018, the Respondent No. 2 lodged an FIR which was registered vide C. R. No. 38 of 2018 with the Kagal Police Station alleging offences punishable under Sections 354A, C and D of the Indian Penal Code and under Sections 3(1)(w)(ii)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Prima facie, having perused the FIR, it is doubtful whether an offence punishable under Section 354A is made out in the facts of the present case. As far as the offences punishable under Sections 354C & 354D are concerned, they are bailable offences. It appears that there was a CCTV camera in the office where the alleged incident took place, however, despite the Appellant asking the police to retrieve the CCTV footage to show the falsity in the Complainant's case, the said CCTV footage could not be retrieved, as according to the Police, the CCTV was not working. Learned APP on instructions fairly states that during investigation, statements of witnesses who were present were recorded, however, the witnesses have stated that they did not hear any

conversation between the Appellant and the Respondent No. 2.

8. Considering the material on record and the peculiar facts of this case, the following order is passed.

O R D E R

- (i) The Appeal is allowed;
- (ii) The order dated 05.04.2018 passed by the learned Additional Sessions Judge, Kolhapur in Cri. B. A. No. 226 of 2018 is quashed & set aside;
- (iii) In the event of arrest, the Appellant be enlarged on bail on his furnishing P. R. Bond in the sum of **Rs. 25,000/-** with one or more sureties in the like amount;
- (iv) The Appeal is, accordingly, disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)