

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1278 OF 2018**

Pratap Chandrakant Deshmukh,
Age 52 years, Occupation Agriculture,
R/at. Shirwal, Taluka Khandala,
District Satara

...Appellant

Versus

1. State of Maharashtra,
(At the instance of
Shirwal Police Station,
District Satara vide
C.R. No. 230/2018)

2. Ujwala Hanmant Sonawane,
Age : 41 Yrs., Occu:Service,
R/at Mavshi, Taluka Khandala,
District Satara

...Respondents

Mr. Niranjan S. Mundargi I/b Mr. Vaibhav R. Gaikwad for the Appellant

Mr. S. V. Gavand, A.P.P for the Respondent No.1-State

Mr. Shailesh D. Chavan for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 9th APRIL 2019

ORAL ORDER :

1 Heard.

2 Admit. Respondents waive notice through their respective counsel. By consent, appeal is taken up for final disposal forthwith.

3 At the outset, learned counsel for the appellant seeks leave to amend prayer clause (a). Leave granted. Amendment be carried out forthwith.

4 By this appeal, the appellant seeks quashing and setting aside of the impugned order dated 9th October 2018 passed by the learned Additional Sessions Judge (Special Judge), Satara, below Exhibit 1 in Criminal Bail Application No. 803/2018 and seeks pre-arrest bail in connection with C.R. No. 230/2018 registered with the Shirwal Police Station, District Satara.

5 Learned counsel for the appellant submits that the respondent No. 2 had falsely implicated the appellant in the said case, as he had given his consent for being a Committee Member, which

was constituted for conducting the inquiry as against the respondent No. 2 for her conduct. He submitted that the two eye-witnesses i.e. Vijaya Dilip Nikam and Laxman Ananda Sawant, to the alleged incident, have supported the respondent No.2, as they too had an axe to grind against the appellant. According to the learned counsel for the appellant, no offence as alleged under Sections 354, 504, 506, 325A of the Indian Penal Code or under Sections 3(1)(w)(i), 3(1)(y)(s) 3(2) (VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, is made out as against the appellant. He submitted that even taking the prosecution case as it stands, the act of twisting the respondent No. 2's hand and threatening her, does not go together, and that the appellant's act of twisting the respondent No. 2's arm cannot be said to be with sexual intent. He further submitted that the alleged two eye-witnesses could never have been there at the spot nor within the hearing range, and as such, the alleged act cannot be said to be in public view.

6 Learned A.P.P opposes the appeal. He submits that a perusal of the FIR shows that the offence as alleged is clearly made

out as against the appellant. He further submits that charge-sheet has been filed as against the appellant.

7 Mr. Chavan, learned counsel for the respondent No.2 supports the learned A.P.P. He submits that a written complaint was sent by respondent No. 2 to the Shirwal Police Station alleging misappropriation of her salary by the appellant, pursuant to which, the appellant accosted her on 26th September 2018, twisted her arm with a sexual intent, threatened her and abused her in the name of her caste. He submitted that the said incident has been witnessed by two witnesses i.e. Vijaya Nikam and Laxman Sawant. He submitted that though it is true that Vijaya Nikam had made a representation in the year 2007 to the Education Officer against the appellant, it cannot be said that the grievance of Vijaya Nikam continued even thereafter, till 2018. He submitted that none of the witnesses had any reason to falsely implicate the appellant.

8 Perused the papers. The appellant is the Secretary of the Shriram Shikshan Prasarak Mandal, which was established in the year

1996. The said Shriram Shikshan Prasarak Mandal is stated to be an educational institution running colleges and schools. There are about 4 schools run by the said institution and about 800 students studying in the said schools/colleges. The respondent No. 2 was working in one of the said schools as a teacher and was appointed in the year 2003 in the said institution as a teacher. According to the learned counsel for the appellant, as there were several complaints filed by the students, their parents and others against the respondent No. 2 and as respondent No. 2 was negligent in her duties and never respected the higher authorities; a show-cause notice was issued to her on 28th July 2018. By the said show-cause notice, respondent No. 2 was called upon to show cause why action should not be taken against her for her behaviour. The respondent No. 2 denied the allegations and replied to the said show-cause notice. The Authority, not being convinced with the reply of the respondent No.2, set-up a Committee to inquire into the said complaint. Out of the three-member committee, the appellant was one of the committee member. According to the learned counsel for the appellant, the respondent No. 2 was informed about the constitution of the said Committee vide letter dated 15th September

2018, which was received by her on 25th September 2018. It appears that on 25th September 2018, the respondent No. 2 sent a written complaint to the Shirwal Police Station alleging misappropriation of her salary by the appellant. The said complaint is on page 183 of the petition. The alleged incident is stated to have taken place on 26th September 2018 at about 5:00 p.m, when the respondent No. 2 was on her way from school. According to the respondent No.2, when she was near the Datta Mandir and was walking towards the ST stand, the appellant came on a two-wheeler, stopped near her, twisted her arm, as a result of which, she felt that her modesty was outraged and thereafter he uttered some objectionable words with regard to her caste. She has stated that the appellant questioned her as to why she had lodged the complaint with the police and threatened her with respect to her job and thereafter, went away from the said spot. Pursuant to the said incident, respondent No. 2 lodged an FIR which was registered vide C.R. No. 230/2018 with the Shirwal Police Station, District Satara, for the offences punishable under Sections 354, 504, 506, 325A of the Indian Penal Code or under Sections 3(1)(w)(i), 3(1)(y)(s) 3(2)(VA) of

the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

9 *Prima facie*, in the facts, it is doubtful, whether the act of twisting of arm with sexual intent and threatening can go together.

10 Learned counsel for the appellant has placed on record why the witness-Laxman Sawant has falsely given his statement against the appellant. According to the learned counsel, Laxman Sawant's wife was terminated from the appellant's School and that though she had approached all the forums including the High Court against the order of termination from school, she had failed in getting any order in her favour. According to the learned counsel for the appellant, as far as witness Vijaya Nikam is concerned, there was a dispute over the road and land between her and the appellant's Society. It is also pertinent to note that according to Vijaya Nikam, she came out of the house on hearing some noise, pursuant to which, she saw what transpired between the appellant and the respondent No. 2. *Prima facie*, whether Vijaya Naik was in a range to hear the

conversation, is a matter, which will be decided and considered by the trial Court. No other witness's statement has been recorded.

11 Considering the peculiar facts of the case and the dispute between the parties, the appeal deserves to be allowed. Hence, the following order :

ORDER

- (i) The appeal is allowed;
- (ii) The impugned order dated 9th October 2018 passed by the learned Additional Sessions Judge (Special Judge), Satara, below Exhibit 1 in Criminal Bail Application No. 803/2018,, is hereby quashed and set-aside;
- (iii) In the event of arrest, in connection with C.R. No. 230/2018 registered with the Shirwal Police Station, District Satara, the appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(iv) The appellant shall not threaten or intimidate the respondent No. 2 or any other person concerned with the case.

12 Appeal is disposed of on the aforesaid terms.

REVATI MOHITE DERE, J.