

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 210 OF 2018

Baban D. Sanap ... Appellant.

V/s.

The State of Maharashtra and anr. ... Respondents.

Mr. Aniket U. Nikam I/b Mr. Aashish Satpute for the Appellant.

Ms Pallavi Dabholkar, APP for the Respondent – State.

Mr. Ajit Kenjale, Court Appointed Advocate for Respondent No.2.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 7th MARCH 2019.

P.C.:

- 1] Heard the respective counsel.
- 2] This is an appeal challenging the order of Special Court rejecting the application seeking pre-arrest bail in Crime No. 7 of 2018 registered at Niphad Police Station, District Nashik against the appellant on 25th January 2018 for the offences punishable under sections 420, 406, 506 of Indian Penal Code and sections 4(1)(f), 3(1)(r) (s) of S.C. & S.T. (Prevention of Atrocities) Act.
- 3] It is the case of the prosecution that respondent No.2, who happens to be the original complainant was the owner of ancestral property situated at Shriram Nagar, Tal. Niphad bearing Gat No.

277 ad-measuring 62 R. According to the complainant, this was Mahar Vatan Land wherein the revenue record indicated that the name of the first informant and several other people belonging to the same caste were recorded in the rights of record.

4] It is alleged that on 15th November 2007, the appellant herein had entered into an agreement for sale in respect of said land on an agreement to pay Rs.1,61,000/- and Rs.1 Lakh was shown to be paid before execution. It is alleged that prior to five years of lodging of FIR, the appellant had drawn a loan from Niphad Nagari Credit Society in the name of the first informant, however, had mis-appropriated the same to his own benefits. It is also alleged that since 2007 the appellant is cultivating the said land without paying consideration for the said land. The informant had been to the house of the appellant to demand the said amount towards consideration and at that stage the appellant had abused the complainant by referring to her caste and to the caste in general.

5] Learned counsel for the appellant submits that the appellant herein had filed Regular Civil Suit No. 76 of 2015 before the Civil Judge, Junior Division, at Niphad against the first informant. The suit was for specific performance and perpetual injunction. The defendants had appeared in the said suit. On 23rd October 2018, the said suit was disposed of as decreed, in view of compromise arrived at between the parties. The decree was drawn accordingly, on the basis of compromise deed, which is at Exhibit-37 of the said suit.

6] Learned counsel appointed for respondent No.2 submits that the FIR dated 25th January 2018 precedes the compromise deed. The said suit was filed in the year 2015 and during pendency of the suit after registration of the FIR, the suit is compromised between the parties.

7] Needless to say that the allegations in the FIR are pertaining to the civil transactions, i.e., an issue covered by the said civil suit. In view of this, it is clear that with an intention to maintain peace and tranquility in the society and between the parties, a

compromise deed is filed before the Civil Judge, Junior Division at Niphad and decree is drawn accordingly. In view of this, the order dated 25th June 2018 granting interim protection to the appellant deserves to be confirmed on same terms and conditions.

8] Mr. Kenjale, learned counsel has put in his best efforts to espouse the cause of the respondent/complainant. In view of this, his professional fees are quantified, as per rules, to be paid by the High Court Legal Aid Services.

9] The Appeal is allowed. In the event of arrest of the appellant, he shall be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one or more solvent sureties in the like amount. The appellant to cooperate with the investigating agency by attending the police station as and when called for.

(SMT. SADHANA S. JADHAV, J.)