

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.463 OF 2019
(Appeal under section 14A of the S.C. & S.T.(Prevention of Atrocities)
AMENDMENT Act, 2015)

1. Arun Shivram Kasvade
2. Rajendra @ Rajaram Kasvade .. Appellants
vs
1. State of Maharashtra
thr.Tembhurni police Station
2. Pushpa Madhukar Vajale .. Respondents

Mr.Tushar N.Sonavane for Appellants
Ms.Pallavi Dabholkar APP for State
None for Respondent no.2

CORAM : PN.DESHMUKH, J.
DATED : 16TH SEPTEMBER,2019

PC.:

1. Heard learned counsel for the appellants and learned APP for State-Respondent no.1. None appears for respondent no.2/complainant though served.

2. Learned APP has also made available the case diary and on instructions, makes a statement that though investigation is complete, charge sheet is not filed.

3. This appeal is filed against the impugned judgment of the trial Court rejecting bail to the appellants, in Crime No.105 of 2019 registered by Temburni police station District Solapur for the offences punishable under

sections 341, 504, 506, read with section 34 of IPC and under sections 3 (1) (r) (s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Amendment Act, 2015).

4. Learned counsel for the appellants submitted, that admittedly, relations between the appellants and respondent no.2 were strained since prior to the incident on the issue of right of way through agricultural field Gat nos.202 and 245 of which proceedings, were before the Court of the Tahsildar and Appeal before the revenue authorities, and in such a background, has contended that both the appellants are falsely involved by respondent no.2 who is the wife of Madhukar Vajale who has initiated such civil litigation, and has contended from the report that though there are allegations therein against the appellants, involving provisions of the Scheduled Castes and Scheduled Tribes, Act, no such incident took place much less in presence of females mentioned in the report, i.e. Sunita Sudhir Vajale, Vandana Prashanjit Vajale and others and have therefore, contended that the application be allowed.

5. Learned APP has opposed the application on the count that there is *prima facie* evidence against the appellants, establishing contravention of the provisions of the Act under which, the offence is registered and has also

referred to the statement of the witnesses in the case diary contending that they corroborate the complainant in her report. Accordingly, the application has to be dismissed.

6. Considering the first round of submissions with regard to pendency of litigation, between the appellants and complainant's husband Madhukar Vajale, the said aspect is found substantiated from the order of the Tahsildar which is in favour of the complainant's husband which order is under challenge, by the appellants, before the civil Court and has sought injunction against the same.

7. As such, admittedly there is a civil case pending between the parties. The date of the order of the Tahsildar is 6.2.2019 while the order passed by the learned Civil Court in favour of the appellants, is dated 11.2.2019 which is one day prior to lodging of report.

8. In the background of above facts, though from the report the complainant has stated in presence of above named females, that she was accused by the appellants on caste basis. A perusal of the statement of Madhukar Vanjale and Sunita Sudhir Vajale, nowhere reveals that in their presence, the appellants on 20.2.2019 at around 9.30 a.m. had abused the

complainant on her caste basis, as in the statement of the said witnesses, what has come on record is that, the complainant informed them, the appellants were saying that she and her husband are acting smart and abused her on the basis of her caste. In view of the statement as above, *prima facie* it does not establish, if any abuses were extended by the accused to the complainant in presence of said females named by the complainant.

9. In that view of the matter, and considering the dates of orders passed in civil litigation, together with the report dated 20.2.2019 by respondent no.2, possibility of her falsely implicating both the appellants is found. In that view of the matter, though investigation is also said to be complete. Appeal is allowed as per following order :

ORDER

- (i) In the event of arrest of appellants in Crime No.105 of 2019 registered by Temburni police station, District Solapur, they shall be released on bail on their executing P.R. bond in the sum of Rs.20,000/- with one surety in the like amount;
- (ii) The appellants shall attend the Investigating Officer, till filing of the charge sheet.

The case diary is returned to learned APP.

(P.N.DESHMUKH, J.)