

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

CRIMINAL APPEAL NO.811 OF 2018

Mukesh Dattaram Bandre Appellant
Vs.
The State of Maharashtra & Anr. Respondents

Mr. Datta mane for the appellant.

Mr. Y.M. Nakhwa, APP for State.

Ms. Nasreen Ayubi, appointed advocate for respondent no.2.

Mr. Prabodhan M. Yejare, API, Central Police Station, Ulhasnagar

Coram : Smt. Sadhana S. Jadhav, J.

Date : 10th January 2019

P.C.:

1 Heard the learned counsel for the appellant and learned counsel Ms. Nasreen Ayubi, appointed for the original complainant.

2 This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It is the case of the prosecution that on 1st April 2018, the complainant Surekha Ashok Baviskar was celebrating the birthday of her minor

daughter. She had received a phone call from her mother, who wanted to talk to another relative. When she was giving the cellphone to her relative, the present applicant had come outside the house and had abused the complainant and threatened that the minor daughter would face similar consequences as her elder sister, who was sexually abused by the brother of the present applicant. The statement of the complainant was recorded on 1st April 2018. The crime has registered on 5th April 2018 and column No. 3(b) of the proforma under Section 154 of Code of Criminal Procedure would show that the information was received at the police station on 5th April 2018 at 4.33 pm.

3 Learned counsel for the appellant submits that the brother of the appellant namely Rupesh Dattaram Bandre was enlarged on bail by the Additional Sessions Judge, Kalyan on 2nd February 2018 in Crime No. I-268 of 2017. The complainant in Crime no. 268 of 2017 is the same complainant as in Crime no. 61 of 2018. It is submitted that in fact on 1st April 2018 at about 10.00 pm., the wife of the present appellant had approached the police

station and lodged a report alleging therein that on 1st April 2018, when she was throwing the garbage at a bin outside her house, the complainant and her relatives had abused her on the road and had threatened her of dire consequences. On the basis of the said report, the N.C. No. 813 of 2018 was registered against the complainant Surekha for the offences punishable under Sections 504 and 506 of Indian Penal Code. It is submitted that upon registration of N.C., the police had called the complainant Surekha to the police station and at that time a story has been concocted to implicate the appellant under the Atrocities Act.

4 Learned counsel appointed for the complainant submits that in fact the brother of the present appellant had sexually abused the daughter of the complainant, he has been enlarged on bail and therefore, the present appellant was seeking to satisfy his vendetta by abusing the complainant and that they would not maintain peace and tranquillity in the society and therefore they do not deserve to be enlarged on pre arrest bail. There is bar under Section 18 of the said Act.

5 Learned counsel for the appellant submits that the act is not committed in a public view. There is no reference to the caste of the complainant. There was no intention to humiliate and that in fact it was the wife of the appellant who had approached the police station against the complainant and therefore she has concocted a case. According to the learned counsel, it is apparent on the face of the record that although the statement was recorded on 1st April 2018, the offence is registered on 5th April 2018. It is submitted that the information is shown to be received at the police station on 5th April 2018 and therefore the possibility that an antedated submission is recorded cannot be ruled out.

6 Be that as it may, the learned counsel for the appellant submits that at present the appellant is not residing in Shantinagar and therefore there would be no occasion for intermittent quarrels between the complainant and the present appellant. In view of this, the order granting interim relief in favour of the appellant by an order dated 5th July 2018 (Coram : A.M. Badar, J.) deserves to be confirmed on same terms and conditions.

7 Learned counsel appointed for the complainant has put in the best of efforts to espouse the cause of the complainant and she would be entitled to the professional fees as per rules.

(*Smt. Sadhana S. Jadhav, J*)

Note : Order corrected by speaking to minutes of the order dated 21st January 2019.