

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

CRIMINAL APPEAL NO. 945 OF 2019

Mahananda Sambhaji Bagal

...Appellant

Versus

The State of Maharashtra

...Respondent

Mr.Abhuijit Kulkarni for the appellant.
Mr.Ranjeet M. Pawar for the original complainant.
Mrs. J. S. Lohakare, APP for the respondent-State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 26th JULY 2019.

P.C. :

Leave granted. The appellant may add the 2nd respondent as a respondent. Amendment to be carried forthwith.

2. The appellant faced the allegations under Sections 504 and 506 of IPC, as well as Section 3(1)(s) and 3(2)(v)(a) of the SC & ST (Prevention of Atrocities) Act. Based on informant's complaint, the police registered Crime No.231 of 2019

3. The appellant initially approached the Sessions Court, seeking anticipatory bail. But the Additional Sessions judge, Baramati, through

order, dated 24th June, 2019, rejected the appellant's claim for anticipatory bail. Aggrieved, the appellant invoked Section 14A of the Act and filed this Criminal appeal.

4. Shri Kulkarni, the learned counsel for the appellant, submits that the applicant and the informant are neighbours. They had boundary disputes. According to him, the appellant has never abused the informant either in his caste or in any other manner. Even if the entire complaint is accepted as true, Shri Kulkarni asserts, it does not *prima facie* reveal any caste abuse. He has also submitted that the appellant has never trespassed on the informant's property, nor has she addressed him directly.

5. To elaborate, Shri Kulkarni submits that when two persons tried to cut grass on the appellant's field, she protested and asked them to leave. Then, when they replied that they had been cutting grass in the neighbour's field, she only mentioned that if they were to cut grass in the neighbour's field, they could go there and should not stay on her field. Shri Kulkarni has also submitted that Section 3(1)(s) requires the caste abuse to have taken place in public view. And the public view excludes, he stresses, the victim's friends and family.

To conclude, Shri Kulkarni has submitted that viewed from any prospective, the complaint reveals only non-cognizable offence—not an

offence under Section 3 of the Atrocities Act. In support to his contention, he has relied on *Asmathunnisa v. State of Andhra Pradesh*¹ and *Mahadev Titthal Jagadale v. State of Maharashtra*².

6. In response, the learned APP has submitted that the crime involves all the ingredients of the provisions the police have invoked. According to her, in the informant's face, the applicant addressed third parties referring to the informant's caste in a disparaging and demeaning manner. And those third parties are not the informant's relatives, though they may have belonged to the same caste. In this context, she has nevertheless submitted that the investigation is in progress, and it is likely that the applicant may threaten the witnesses, if she is allowed anticipatory bail.

7. The learned counsel for the 2nd respondent has supported the learned APP's arguments. Faced with the question of delay in the informant's lodging the complaint, the learned counsel has handed over to me a compilation, which contained the original complaint, and other communication to the police officials. To elaborate, he has submitted that the police did not register the crime initially. So the informant, then, was compelled to approach the higher authorities. In that process, there occurred two months' delay. He eventually urges this Court to dismiss the appeal.

¹(2011) 11 SCC 259

²2017 SCC Online Bom 8714

8. After arguing for some time in reply, Shri Kulkarni, in the end, has submitted that the appellant is a rustic woman who is close to 60 years. Her suffering pre-trial incarceration in a village will destroy her and her family reputation. If the guilt could be brought home, she would not flee from the process of court and would, in fact, subject herself to the verdict. So Shri Kulkarni has submitted that the appellant will surrender before the jurisdictional Sessions Court. This Court may, in that event, require the trial Court to consider the applicant's regular bail without any further delay—preferably on the same day. The learned APP and the learned counsel for the 2nd respondent have both agreed to this proposal.

9. I, therefore, dispose this criminal appeal without touching on the merits.

10. As a result, if the appellant surrenders herself before the trial Court on or before 14th August 2019, the trial Court will consider her regular bail application without further delay, keeping in view the appellant's gender and age.

11. The learned APP assures that in the meanwhile the police will expedite the investigation.

[DAMA SESHADRI NAIDU, J.]