

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

CRIMINAL APPEAL NO. 1751 OF 2019

Girjabai Laxman Kale

.. Appellant

v/s.

The State of Maharashtra & Ors.

.. Respondents

Mr. Ghanasham S. Jadhav for the appellant

Mr. A.A. Palkar, APP for the respondent State

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 17th FEBRUARY, 2020

P.C.

1. Heard the learned Counsel for the appellant. Despite private service through speed post, none appears for respondent no.2 and the complainant.

2. Challenge in this appeal is to an order dated 20th November, 2019 passed by the Additional Sessions Judge, Pandharpur by which he rejected the application seeking pre-arrest bail of the applicant in C.R. No. 331 of 2019 registered with Pandharpur Rural Police Station for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(2)(va) 3(i)

(w)(ii) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. At the outset, the learned Counsel for the appellant has drawn my attention to the First Information report. With the assistance of the learned Counsel, I have gone through the recital of the First Information report, which *prima facie* reveals a quarrel on account of percolation of water from the field of the complainant to that of the field of the appellant. There seems to be some altercation and assault upon the victim by the applicant and her husband. The FIR *dehors* of any words or utterances, qua the provisions of the S.C.S.T. (Prevention of Atrocities) Act. The offences which *prima facie* appears to have been made out from the FIR at the most would be under the provisions of Indian Penal Code and not under the S.C.S.T. (Prevention of Atrocities) Act. Incidentally, the first informant and her husband belongs to Scheduled Class, would not *ipso facto* mean that a common dispute of adjoining land owners will attract the provisions of the S.C.S.T. (Prevention of Atrocities) Act.

4. The learned Additional Public Prosecutor is fair enough to

submit that the injury is simple and the charge-sheet has already been filed in the Court.

5. In that view of the matter, the impugned order needs to be quashed and set aside as the learned Sessions Judge has failed to consider and appreciate the First Information Report in the correct perspective. Consequently, there would be no question of attracting the bar under Section 18 of the S.C.S.T. (Prevention of Atrocities) Act. Consequently, following order is expedient :-

ORDER

(i) The appeal is allowed. The impugned order passed by the learned Additional Sessions Judge, Pandharpur in Criminal Miscellaneous Application No. 1223 of 2019 on 20th November, 2019 is quashed and set aside.

(ii) In the event of arrest of the appellant in C.R. No. 331 of 2019 registered with Pandharpur Rural Police Station for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(2) (va) 3(i)(w)(ii) of the S.C.S.T. (Prevention of Atrocities) Act,

he be released on furnishing a PR. bond in the sum of Rs. 10,000/- with one surety to the satisfaction of the Additional Sessions Judge, Pandharpur.

6. The application stands disposed of in the aforesaid terms.

(PRITHVIRAJ K. CHAVAN, J.)