

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

CRIMINAL APPEAL (STAMP) NO. 3152 OF 2020

1. Dinesh Govind Patil
2. Ananta Govind Patil
3. Riteshkumar Dinesh Patil
4. Tejas Dinesh Patil
5. Sanjay Mangesh Patil
6. Yogesh Tukaram Patil

...Appellants

Versus

1. The State of Maharashtra
2. Dinesh Ganpat Meghe

...Respondents

Mr. Vinay Bhanushali for the Appellants

Mrs. S. V. Sonawane, A.P.P for the Respondent No.1–State

Mr. Pravin Padave i/b Mr. Vishal Patil for the Respondent
No. 2/Complainant

CORAM : REVATI MOHITE DERE, J.

MONDAY, 2nd NOVEMBER 2020

(THROUGH VIDEO CONFERENCING)

P.C. :

1 Heard learned counsel for the appellants, learned A.P.P for the
respondent No.1-State and learned counsel for the respondent No.2.

2 As far as appellant No.2-Ananta Govind Patil is concerned, learned counsel, after arguing for some time, does not press this appeal *qua* him and seeks leave to withdraw the appeal *qua* him. He states that the said appellant will surrender before the appropriate Court within one week from today, after giving 48 hours notice to the concerned police station.

3 By this appeal, the appellant Nos. 1 and 3 to 6 seek pre-arrest bail in connection with C.R. No. I-19 of 2020 registered with the Ganeshpuri Police Station, Thane, for the alleged offences punishable under Sections 143, 147, 148, 149, 324, 323, 504 of the Indian Penal Code ('IPC') and under Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act ('SC ST Act').

4 Learned counsel for the appellant Nos. 1 and 3 to 6 submits that the allegations as against the said appellants are false and baseless and arise out of a dispute over a plot of land i.e. 66 gunthas of land. He submits that the appellant Nos. 1 and 2 are also claiming 66 gunthas of land and one Vitthal Narayan Patil and his heirs are also claiming the said piece of land, as belonging to them. He submits that all the alleged offences under IPC are bailable. According to the learned counsel, the allegations against the

appellant No. 1 with respect to uttering certain objectionable words in the name of the caste, do not, on the face of it, disclose an offence under the SC ST Act, as mere reference to the caste would not attract the provisions of the SC ST Act, without there being an intent to insult or intimidate or humiliate a member of the SC ST Tribe. As far as appellant Nos. 3 to 6 are concerned, he submits that there is nothing in the FIR to show that the said appellants uttered any objectionable words in the name of the complainant's caste. He further submits that there is a cross-complaint lodged by the appellant No.1's daughter with respect to the incident and as such, the possibility of false implication, cannot be ruled out.

5 Learned A.P.P opposes the appeal. Similarly, Mr. Padave, learned counsel for the respondent No.2 opposes the appeal and submits that an offence under the SC ST Act is clearly made out.

6 Perused the papers. According to the complainant-Dinesh Meghe, Sarpanch of Group Grampanchayat, Eksal, Sagaon and Devchole, he, along with the other members of the Committee, had gone to conduct a survey of one plot, belonging to Vitthal Narayan Patil. He has stated that the incident took place on 22nd June 2020 at about 4:00 p.m, when he had gone to the plot of land for conducting survey along with Survey Officers-

Shri Ashok Kateskar, Shri Rathod, Shri Mada from Forest Right Committee. According to the complainant, when the Survey was going on, Dinesh Patil (appellant No.1) came to the said plot, armed with an iron chain and threatened the complainant. The complainant has stated that when he told him that the land belonged to Vitthal Patil, the appellant No. 1 stated that the land belonged to him and assaulted Prakash Patil with an iron chain. The complainant has further stated that when he intervened to resolve the confrontation, the appellant No. 1 held his arm and abused him and pushed him. It is further alleged that the appellant No. 2-Ananta Govind Patil, also uttered some objectionable words. Thereafter, appellant Nos. 3 to 6 i.e. Riteshkumar Patil, Tejas Patil, Sanjay Patil and Yogesh Patil, are alleged to have come on the spot and assaulted Prakash Patil by fist blows. Pursuant thereto, the complainant lodged the aforesaid FIR/complaint with the Ganeshpuri Police Station, Thane. The offences under the IPC are all bailable. As far as offences under the SC ST Act are concerned, the appellant Nos. 3 to 6 have not uttered any abuses in the name of the complainant's caste. As far as appellant No.1 is concerned, he has named the caste, however, there is nothing to show that it was done with the intention to insult or intimidate or humiliate a member of the SC ST Tribe.

7 Leaned counsel for the appellants relied on the judgments of this Court in the cases of ***Krishna Parmeshwar Gaikwad vs. State of Maharashtra***¹ and ***Vasantrao s/o Madhavrao Vhadgir & Ors. vs. State of Maharashtra & Anr.***². In para 10 of ***Vasantrao (Supra)***, this Court has held that mere hurling abuses in the name of caste would not be sufficient to draw the inference that there was any intent or mens rea to humiliate the complainant and others on their caste within public view. Relevant portion of para 10 reads thus :

“10. In the matter in hand, it has been alleged that appellants hurled abuses in the name of caste of first informant by uttering words “Maharche” or “Adiwasi”, etc. If these words “Maharche” or “Adiwasi” are taken out from the conversation shown occurred in the FIR for moment then other utterances “Tumhi Majale Ka”, etc. perceived from the FIR though indicate “threat” or “intimidation”, but it would not be sufficient to draw the inference that there was any intent or mens rea to humiliate the complainant and others on their caste within public view.”

8 The appellant No.1 is alleged to have addressed the complainant as ‘Ae Konknya Adivashya, tumhi aamche jageche bhandane sodvinar ka?’. *Prima facie*, in the facts, the appellant having only uttered

1 2019 All MR (Cri) 1717

2 2020 All MR (Cri) 365

as above, it is doubtful whether an offence under the SC ST Act is made out *qua* appellant No. 1. As noted above, appellant Nos. 3 to 6 have not uttered any abuses. As far as appellant No. 2 is concerned, as noted above, learned counsel for the appellants has not pressed the appeal *qua* appellant No.2- Ananta Govind Patil, as the Court was not inclined to consider his prayer for pre-arrest bail.

9 Considering that the appellant Nos. 1 and 3 to 6 have made out a *prima facie* case for grant of pre-arrest bail, the following order is passed :

ORDER

- (i) The appeal is partly allowed;
- (ii) In the event of the arrest, the appellant Nos. 1 and 3 to 6 i.e. Dinesh Govind Patil, Riteshkumar Dinesh Patil, Tejas Dinesh Patil, Sanjay Mangesh Patil and Yogesh Tukaram Patil, be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
- (iii) The appellant Nos. 1 and 3 to 6 shall report to the Investigating Officer of the concerned Police Station on 9th and 10th November

2020 from 10:00 a.m to 12:00 noon, and thereafter, as and when called;

(iv) As far as appellant No. 2-Ananta Govind Patil is concerned, the appeal is dismissed as withdrawn *qua* him;

(v) The appellant No. 2-Ananta Govind Patil shall surrender before the appropriate Court, within one week from today, after giving 48 hours notice to the concerned Police Station.

(vi) If an application for regular bail is filed by the appellant No.2, the learned Judge shall consider the same on its own merits, uninfluenced by the withdrawal of this appeal, expeditiously.

10 The appeal is accordingly disposed of on the above terms.

11 All concerned to act on the copy of this order, digitally signed by the Senior Private Secretary of this Court.

REVATI MOHITE DERE, J.