

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO.347/2020

Umesh S/o Suresh Dhote,
 Aged about 31 years,
 Occupation : Education, R/o.Flat
 No.306, Malviya Apartment,
 Yogiraj Nagar, Panchsheel
 Chowk, Amravati, Tq. and
 District-Amravati.

.....APPELLANT

..V E R S U S..

- 1) State of Maharashtra,
 Through P.S.O., Gadge Nagar,
 Amravati, Distt. Amravati.

- 2) Pradeep Krushnarao Mohod,
 Aged about 36 years, Occu.
 Service, R/o.Flat No.307, Malviya
 Apartment, Yogiraj Nagar,
 Panchsheel Chowk, Amravati, Tq.
 and Distt-Amravati

...RESPONDENTS

 Shri Mahesh Rai, Advocate for appellant.
 Ms. M.H. Deshmukh, A.P.P. for respondent No.1/State.
 Respondent No.2 Served.

CORAM:- VINAY JOSHI, J.

DATED :- 27/10/2020

ORAL JUDGMENT

1. Admit. Heard finally with consent of learned counsel
 appearing for the parties.

2. The challenge in this appeal is to the order of rejection of pre-arrest protection by Additional Sessions Judge, Amravati dated 07/09/2020, in the matter of Crime registered with Gadge Nagar Police Station bearing Crime No.714/2020, for commission of offence punishable under Sections 354 and 294 of the Indian Penal Code read with Section 3(1) (r) (s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

3. Initially, after hearing the learned counsel for the appellant, interim protection was granted by this Court vide order dated 14/09/2020. Learned A.P.P. made a statement that respondent no.2 is served with the notice of the appeal. The appellant would contend that prima facie case has not been made out to constitute the offence punishable under charged section of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, hence he deserves for pre-arrest protection.

4. The State resisted appeal vide reply/affidavit of which the contents are read over.

5. The appellant would submit that the First Information Report is nothing but, an attempt to give a counter check to the earlier First Information Report lodged by appellant's sister-in-law vide C.R. No.112/2020 against respondent no.2. Copy of said First Information Report is produced which shows that at earlier point of time appellant's sister-in-law alleged that respondent no.2 had outraged her modesty for which the offence was registered. Within two hours, the existing First Information Report has been lodged, hence their appears to be prima facie substance in the contention of appellant.

6. On perusal of First Information Report, it reveals that the actual abuses have not been stated. The nature of injury is not evident. Noting is required to be seized at the instance of appellant. There is no complaint of misuse of liberty while appellant was on interim bail. The appellant has co-operated for investigation by giving attendance. Reply affidavit does not make out any substantial reason to withdraw the interim protection. Having regard to all these facts, the appellant has made out a case for grant of pre-arrest protection.

7. Criminal Appeal is therefore allowed. The impugned order dated 07/09/2020 passed by Additional Sessions Judge, Amravati in Case No. 714/2020 is hereby quashed and set aside. Interim protection granted by this Court vide order dated 14/09/2020, is hereby made absolute with a rider that the appellant shall attend police station as and when called.

Appeal is disposed of accordingly.

JUDGE

R.S. Sahare