

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

LD-VC Criminal Appeal No.995 of 2020

Vitthal S/o Parashram Hambre and another. **Vs.** State of Maharashtra and another

WITH

LD-VC Criminal Appeal No.838 of 2020

Dr. Balu S/o Ramesh Kalapad . **Vs.** State of Maharashtra and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri D.G. Dhobale, Advocate for the Appellants.

Shri A.V. Palshikar, APP for Respondent No.1/State. (in both appeals)

CORAM : S.M. MODAK, J.

DATE : 21st AUGUST, 2020.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. One incident of rioting and beating took place on 20th June, 2020 at Village Pedgaon, Tahsil Risod, District Washim. It was in front of the Zilla Parishad School. The first informant - Damini Prakash Bhosale, when she was returning home, one of the accused Baban Kalapad caught hold her hand and thereafter the incident took place. The first informant called her husband – Prakash. The first informant somehow rescued herself and went running to her house. There also, she was beaten by some of the accused persons. The first informant, her husband - Prakash, her mother-in-law and few others were injured. The police of Risod Police Station registered an offence bearing Crime No.524/2020 on 23rd June, 2020 for the offences punishable under Sections 354, 354-A, 341, 342, 324, 323, 143, 147, 148, 149, 452, 504, 506 of Indian Penal Code read with Sections 3(1)

(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in Appeal No. 995/2020). This is the prosecution version so far as these appellants are concerned.

3. Whereas, the appellants have got different version to offer. On the complaint of one Kausabai, the same Police Station has registered the offence bearing Crime No.525/2020 for the offences punishable under Sections 324, 323, 143, 147, 148, 149, 504 and 506 of Indian Penal Code. One Soni Bhosale has taken out mobile from the pocket of Baban Kalapad and when protested quarrel took place. In the quarrel, some of the accused persons have beaten Baban Kalapad, the first informant - Kausabai and two other persons.

4. These appellants claim that even though they have been named, it is the case of the false accusation. Their bail application came to be rejected by the Court of Additional Session Judge, Washim *vide* order dated 14th July, 2020. The learned Judge considered the ongoing investigation and possibility of communal riot while rejecting the applications.

5. It is true that the investigation is in progress. It is also true that at this stage, it is difficult to ascertain who is aggressor. No doubt, the persons from both the sides have received injuries. I have also perused the First Information Report in Crime No.525/2020. The first informant - Kausabai though has named certain persons from her side who are injured in that incident, she has not stated that the present appellants have also come on the spot. I think, this factor weighs in favour of the appellants. I am also influenced by the fact that the First Information Report has been lodged after three days. I do find that there are specific allegations against these appellants. But

for the reason stated above, I think they have made out the exceptional case. Certain weapons have been seized from the spot. The interest of investigation can be protected by giving attendance. The learned Session Judge has not considered these facts. He has not considered that there is a counter version to the incident also. Hence the order:-

ORDER

- i. The appeals are **allowed**.
- ii. The order dated 14th July, 2020 passed by the Additional Session Judge, Washim is set aside.
- iii. The Investigating Officer of Crime No.524/2020 at Police Station, Risod is directed to release these appellants in the event of arrest on bail on furnishing personal bond and surety bond of Rs.20,000/- (rupees twenty thousand only) each.
- iv. The appellants are directed to give attendance to Risod Police Station on every **Monday** and **Friday** at **10:00 a.m.** to **12:00** noon, till filing of charge-sheet.
- v. The appellants are directed to cooperate with the investigation as and when required.
- vi. The appellants are directed not to threaten the prosecution witnesses. If they will threaten the prosecution witnesses, the prosecution will be at liberty to apply for cancellation of their bails and it will be considered on merits.

vii. The appeals are disposed of.

6. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

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