

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 705 OF 2021

Dyandev Shambhaji Thavare

..Appellant

V/s.

State of Maharashtra and anr.

..Respondents

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Mr. Abhijit A. Desai i/by. Desai Legal, Advocate for the
appellant.

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CORAM : SANDEEP K. SHINDE, J.

12th October, 2021.

P.C. :

1. Not on board. Taken on board.

2. The matter has been moved for speaking to
minutes of the order dated 8th October, 2021.

3. The Counsel for the appellant, states that since it is a Criminal Appeal and the appellant is already in jail, the words "In the event of arrest" typed in Clause (i) of para (8) be deleted and replaced with "The appellant arrested in Crime.."

4. The corrections be carried out and the order be read accordingly .

(SANDEEP K. SHINDE, J.)

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Dyandev Shambhaji ThavareAppellant

V/s.

State of Maharashtra and anr.Respondents

* * * *

Mr. Abhijeet Desai a/w. Ms. Surbhi Agarwal i/by.

Desai Legal, Advocate for the appellant.

Mr. Y.M. Nakhawa, APP for State-respondent no.1.

Mr. Sharad T. Bhosale, Advocate for respondent no.2.

Investigating Officer, G.B. Nimbalkar from S.D.P.O.

Office, Akluj Present.

Mr. Balavraj Shivpuje, S.D.P.O. Akluj present.

CORAM : SANDEEP K. SHINDE, J.

Friday, 8th October, 2021.

P.C. :

1. Heard.

2. It is an appeal under Section 14A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Act of 1989").

3. The appellant seeks his enlargement on bail in connection with Crime No.199/2021 registered with Velapur Police Station, Solapur for the offences punishable under Sections 306, 504 of the Indian Penal Code and Section 3(1) (3), 3(2)(va) of the Act of 1989.

4. At the outset, it may be stated that, offences under Sections 306 and 504 of the Indian Penal Code, are not scheduled offences, within the meaning of Section 3(2) (va) of the Act of 1989.

5. Prosecution case in brief is that, complainant's husband-Dattatray was working as a tractor driver with the appellant. His monthly salary was Rs.10,000/-. Her husband had borrowed Rs.1,00,000/- from the appellant. Once while driving, tractor overturned accidentally. Thus, the appellant allegedly abused Dattatray and demanded damages Rs.1,00,000/-; after which upon lodging non-cognizable complaint, dispute was settled. Incidentally, Dattatray was also owning a tractor. Appellant allegedly

retained all ownership documents of the tractor with him. Thereafter, Dattatray left the appellant's job and started working as agricultural labourer. Two months before the incident, appellant called Dattatray and employed him as a tractor driver. In the meanwhile, Dattatray sold his tractor to one Ganesh Tingle, somewhere in the first week of June. Whereafter, the appellant though requested to handover the documents of the tractor, he allegedly refused and retained the papers/documents with him. On 5th June, 2021, Dattatray committed suicide by hanging. Before committing suicide, he told his wife that, in the morning, appellant had quarelled with him over the incident of tractor, which was overturned a month back and abused him over his caste; whereafter Dattatray's wife lodged the subject FIR.

6. The appellant was arrested on 9th July, 2021. The trial Court declined to release him on bail. Therefore, this appeal.

7. Heard Mr. Desai, learned Counsel for the appellant and learned APP for State and Mr. Bhosale for the complainant.

8. It is apparent from the FIR that, since before Dattatray committing suicide to which appellant allegedly aided or abated, dispute between the appellant and deceased over the incident of tractor that overturned, was subsisting and therefore complaint on the face of it, does not imply that the complainant intentionally or knowingly assisted Dattatray to commit suicide. Besides, there is no material on record to suggest that, the appellant abused Dattatray in relation to his caste in public view. Even otherwise, the appellant has been incarcerated since 9th July, 2021. There are no criminal antecedents against him. Therefore, his presence for the trial can be secured by imposing conditions. For this reason, the application is granted. Hence, the following order :

ORDER

(i). The appellant arrested in Crime No.199/2021 registered with Velapur Police Station, Solapur, he shall be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like sum.

(ii). Appellant shall report to the Investigating Officer as and when called and co-operate in the investigation.

(iii) Appellant shall furnish his residential address as well as permanent address and contact details to the investigating officer within a week of his release from the jail.

(iv) Appellant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

8. Appeal is allowed and disposed of accordingly.

9. It is made clear that observations made hereinabove be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)

Note : Correction is carried out in Clause (i) of para-8 only.