

Tandale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 53 OF 2021

Savita Balasaheb Phule

.... Appellant.

Vs.

The State of Maharashtra & Anr.

.... Respondents.

Mr. Rahul K. Dhaygude for the Appellant.

Mr. S.S. Hulke, APP for the Respondent No.1-State.

CORAM : A. S. GADKARI, J.
DATE : 12th FEBRUARY, 2021.

P.C.:-

This is an Appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment Act 2015) (for short, "SCST Act") for pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in C.R. No.886 of 2020 dated 9th November 2020 registered with Satara City Police Station under Sections 323, 340, 342, 392, 504, 506 read with 34 of the Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(va) of SCST Act.

2. Heard Mr. Dhaygude, learned counsel for the appellant and Mr. Hulke, learned A.P.P. for respondent No.1-State. Perused record of investigation.

3. The First Information Report is lodged by respondent No.2 on

9th November 2020. It is stated that, she resides at the address mentioned in the title-clause. She had purchased the row house No.3 on 8th January 2020. Her father Mr. Ramchandra Gaikwad is residing in the same vicinity, in row house No.9. The informant is working in Tahsil Office at Wai as a clerk. During the pandemic from 23rd March 2020, her colleagues used to drop her at her residence while returning from office. Appellant and her husband are residing in the adjoining row house of the respondent No.2. They used to tease the respondent No.2 from her caste and insult her. On 6th November 2020, when the respondent No.2 came back from her duty, it was informed to her by her father that, the respondent No.2 and her husband Balkrushna Phule created hindrance in fixing gate to their row house and also abused him in filthy language on his caste. At that time, appellant pressed neck of the mother of respondent No.2. It is alleged that, the appellant abused respondent No.2 in derogatory language and also abused her in filthy language on her caste. On 7th November 2020, also similar type of incident took place. The respondent No.2 has alleged that, on 8th November 2020 at about 10.00 a.m., the appellant abused her in filthy language on her caste when she was proceeding from the road in front of the house of respondent No.2. It is further alleged that, on 9th November 2020, at about 9.30 a.m., the respondent No.2 had called Mr. Kiran Devkule for fixing CCTV cameras in her house and when they were proceeding to her row house, the appellant and her husband prevented

them and abused the respondent No.2 in filthy language on her caste and assaulted her. It is also alleged that, Mr. Balkrishna Phule torn the dress. When the mother of respondent No.2 tried to save her, she was also assaulted by the appellant and her husband. That, the said incident has been witnessed by Mr. Kiran Devkule and Mr. Rajendra Sapkal. It is alleged that, in the said melee the appellant snatched 'Mangalsutra' from the neck of the respondent No.2. In the brief premise, the aforestated crime is registered.

4. Mr. Dhaygude, learned counsel for the appellant submitted that, the appellant has also registered a counter case against the respondent No.2 and her family members on 12th November 2020, arising out of the same incident. He submitted that, as far as the alleged incident dated 6th November 2020 is concerned, police have recorded N.C. No.1360 of 2020 wherein the allegation of abuses on caste are absent. He submitted that, there is a dispute between the family members of the appellant and respondent No.2 over the way to the row house and with a view to take revenge, the appellant has been falsely implicated in the present crime. He submitted that, the appellant is a woman and she may be protected by pre-arrest bail. He therefore prayed that, impugned Order dated 23rd December 2020 passed by the learned Additional Sessions Judge, Satara may be set aside by allowing the present Appeal.

5. Per contra, Mr. Hulke, learned A.P.P. opposed the Appeal and

produced record of investigation for my perusal. He submitted that, there are eye witnesses to the incident dated 9th November 2020 who have duly corroborated version of the first informant. He submitted that, present Appeal has no merits and it may be dismissed.

6. Perusal of First Information Report lodged by respondent No.2 would reveal that, for the incident dated 9th November 2020, there are at least two independent witnesses. On 9th November 2020, the appellant and her husband abused the respondent No.2 on her caste and have also assaulted her. The medical certificate issued by the Medical Officer, District Hospital, Satara dated 9th November 2020 and the injuries mentioned therein, prima facie, duly corroborates the version of the first informant.

7. As far as the contention of the learned counsel for the appellant with regard to the N.C. No. 1360 of 2020 dated 6th November 2020 is concerned, though it reveals that, no specific averments with respect to abuse on caste is mentioned therein, it has no direct relevance with the present Appeal, as the present crime is registered on the basis of the incident which took place on 9th November 2020 at about 9.30 a.m. The respondent No.2 has narrated the said incident dated 6th November 2020 to contend that the appellant and her husband are continuously harassing her. The incident of 9th November 2020 of abusing the respondent No.2 on her caste has taken place in public view, it therefore can not be said that, no prima facie case at all is made out by the prosecution against the appellant.

8. In view of the above, this Court is of the opinion that, there are no merits in the Appeal and Appeal is accordingly dismissed.

(A.S. GADKARI, J.)