

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 353 OF 2020

JYOTI VITHAL KHARVA) APPELLANT

V/S.

THE STATE OF MAHARASHTRA

AND ANR.) RESPONDENTS

* * * *

Mr. Ramprasad V. Gupta, Advocate for the appellant.

Ms. M.R. Tidke, APP for State-respondent no.1.

Ms. A.S. Rao, Advocate for respondent no.2.

CORAM : SANDEEP K. SHINDE, J.

Monday, 6th December, 2021.

P.C. :

1. Heard.
2. Apprehending arrest in connection with Crime No.236/2019 registered at Andheri Police Station for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code; Sections 4 and 5 of the Dowry Prohibition Act, Section 3(1)(r)(s) of

the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Atrocities Act”), when, the applicant approached for pre-arrest bail, the learned Additional Sessions Judge declined to grant the protection, whereafter this Appeal is preferred under Section 14A of the Atrocities Act.

BACKGROUND FACTS :

3. Applicant is senior citizen and mother-in-law of the complainant. Her son is the co-accused. He was arrested and released on bail. As on today, he is in Dubai. It may be stated that, before registration of crime in question, applicant and her husband had filed written complaint at Andheri Police Station, on 18th March, 2019 and narrated, as to how they were harassed by their daughter-in-law; whereafter the parties were called to the police station but the dispute could not be settled; whereafter on 10th May, 2019, complaint was filed by daughter-in-law of the applicant. She belongs to Scheduled Caste. She would allege that, applicant abused her on caste in presence of her neighbours and thereby committed

offence punishable under Section 3(1)(r)(s) of the Atrocities Act.

4. The Apex Court in the case of **Hitesh Verma V/s. State of Uttarakhand and Another, (2020) 10 SCC 710**, has held that, the offence under Section 3(1)(r) of the Act would indicate ingredient of intentional insult and intimidation with an intent to humiliate member of Scheduled Caste or Scheduled Tribe. Therefore, all insults and intimidations to person will not be offence under the Atrocities Act, unless such insult or intimidation is 'only' on account of victim belonging to Scheduled Caste or a Scheduled Tribe (emphasized). The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society, is subjected to indignities, humiliations and harassment. Here in the case in hand, complainant married applicant's son in the year 2013. Although, she belongs to the Scheduled Caste, yet, after her marriage she ceases to be the Member of the

vulnerable section of the Society, for the purposes of this Act. Therefore, merely because complainant was allegedly subjected to cruelty by the accused, it cannot be said that, only because she belongs to a Scheduled Caste, she was subjected to cruelty. Even otherwise, the applicant is a senior citizen, 69 year old lady. Her son (co-accused) was arrested and released on bail. Even before this complaint came to be lodged, applicant and her husband had filed a complaint against the complainant. Therefore, in my view, the complaint does not disclose the offence punishable under the Atrocities Act. Appeal is therefore allowed.

5. In the event of arrest of the appellant in Crime No.236/2019 registered at Andheri Police Station, she shall be released on bail on executing P.R. Bond in the sum of Rs.10,000/- (Rs. Ten Thousand only) with one or more sureties in the like sum.

6. The appellant shall report to the Investigating Officer of the concerned Police Station, as and when called.

7. The appellant shall furnish her permanent residential address and contact number to the Investigating Officer forthwith.

8. The appellant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

9. The application is accordingly allowed and disposed off.

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

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(SANDEEP K. SHINDE, J.)