

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No. 656 / 2021

Sagar Vishnu Dhobale .. **Appellant**

Versus.

The State of Maharashtra and Anr. .. **Respondents**

Mr. Prashant M. Patil, Advocate for the Appellant.

Mr. Y.M. Nakhawa, APP for State.

Ms. Shirani Kundar appointed Advocate Legal Aid.

Mr. Anil Lambate and Mr. Balaji Kamble, P.I.,
Manchar Police Station, Pune.

CORAM : SANDEEP K. SHINDE J.

DATE : 12th OCTOBER, 2021.

P.C. : -

1. It is an appeal under Section 14A of the Scheduled Case and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Apprehending the arrest in connection with the Crime No. 389/2021 registered under Sections 143,

147, 148, 149, 323, 324, 354, 504, 506 of the Indian Penal Code, 1860 read with Section 3(1)(R)(S), 3(2) (VA) of the Act, 1989, Appellant is seeking pre-arrest protection.

3. Heard. Learned Counsel for the Appellant, Complainant and Prosecutor for the State.

4. This Court vide order dated 18th August, 2021 granted interim pre-arrest protection to the Appellant. It is Appellant case that he has been falsely implicated in this case. He contended that video recording of the incident shows that Appellant had gone to pacify the quarrel and infact it was Complainant i.e. Respondent No.2 was holding stick and was assaulting everyone around. To ascertain this fact, Prosecution was directed to verify video clip of the incident and also the antecedents of the Appellant.

5. Learned Prosecutor on instructions would submit that Investigating Officer has not viewed the video clip and therefore he is unable to comment, whether Appellant was making efforts to pacify the quarrel and whether Complainant was armed with a stick and was assaulting everyone around.

6. Be that as it may, learned Counsel for the Complainant submitted that the First Information Report (FIR) was registered on the basis of video clip. However, the FIR does not make any reference to a fact that video clip was viewed and thereafter FIR was registered.

7. I have gone through the investigation record, wherefrom it appears three persons allegedly injured in the incident, were referred to Rural Hospital on 24th June, 2021. Injury certificates show that injured had sustained the blunt trauma and abrasion. All injuries were certified as 'simple injuries'.

The injured persons were brought to the Rural Hospital by the relatives, referred by concerned police station. Therefore, it implies that Complainant had first approached the police station, who then referred the injured persons for their medical examination. If that be so, Prosecution ought to have produced station diary to fortify the Prosecution case, because FIR was not lodged in reasonable time of occurrence. Neither station diary has been produced, nor the medicolegal certificate reveals the narration of incident. Additionally, it appears on 15th July, 2021 (nearly after 20 days) Complainant alleged that in the course of scuffle, Appellant outraged the modesty of his brother's wife. Obviously, this was afterthought allegation because the FIR itself indicates that on the scene of offence, Complainants' brother's wife was present.

8. Thus, it is to be noted that the Investigating

Officer has neither seen video clip to verify the allegations and the role of Appellant, nor there is any explanation on record, as to why the allegations of outraging modesty of Complainants' brother's wife were not made, when the FIR was lodged. Cumulative effect of such omissions, improvements delay in reporting, the incident and not viewing the video clip of the incident, prima-facie leads me to hold that the FIR does not disclose the commission of offence under the Act of 1989. For that reason, Appeal is allowed. Hence the following order.

O R D E R

(i) In the event of arrest, the Appellant be enlarged on bail on executing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand only) with one or two sureties in the like amount.

(ii) The Appellant shall report to the Investigating Officer on 18th, 22nd, 25th, 29th October, 2021 between

11 a.m. to 01 p.m. and thereafter once a month i.e.
Second Monday till the charge is framed.

(SANDEEP K. SHINDE, J.)

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Najeeb..