

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***CRIMINAL APPEAL NO.781 OF 2021
WITH
INTERIM APPLICATION NO.2308 OF 2021***

Vinod Singh and Anr. ...Appellants
Vs
The State of Maharashtra & Ors. ... Respondents
...

Mr. Ghanshyam Upadhyay for the Appellants.
Smt.S.V.Sonawane, APP for the Respondent-State.
Mr. Veerdhawal Deshmukh, appointed advocate for Respondent
No.2.
API Ganesh Bhamare, Kashmiri P.Stn. Present.

***CORAM : SANDEEP K. SHINDE J.
DATE : DECEMBER 16, 2021.***

P.C. :

Heard learned counsel for the appellants, the learned
prosecutor for the State and the learned advocate (appointed) for the
complainant.

2 Appellants, are Father-in-law and Mother-in-law of the
complainant. She lodged the complaint against her husband and the

appellants. Whereupon, offence under Sections 498A, 323, 504, 506 and 34 of the Indian Penal Code, 1860 and under Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Act of 1989' for short) came to be registered. She belongs to Scheduled Caste. The First Information Report implies and suggests, marital discord between the husband and wife. Therefore, alleged caste abuses cannot be said to be hurled only because complainant belongs to Scheduled Caste. The Apex Court in the case of ***Hitesh Verma v. State of Uttarakhand*, (2020) 10 SCC 710** has held in paragraphs 16 and 18 as under:

“16. There is a dispute about the possession of the land which is the subject-matter of civil dispute between the parties as per Respondent 2 herself. Due to dispute, the appellant and others were not permitting Respondent 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present

case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.”

3 Therefore, in consideration of the facts of the case and the judgment of the Apex Court in **Hitesh Verma (Supra)**, in my view, allegations do not constitute offence under the Act of 1989.

4 Thus, in the event of arrest of the appellants in Crime No. 579 of 2021 registered with Kashimira Police Station, they shall be released on executing PR bond for the sum of Rs.10,000/- each with one or more sureties in like sum.

5 Appellants shall furnish necessary particulars of their residence and contact details to the Investigating Officer within seven days from today and shall join investigation as and when called.

6 The appeal is accordingly allowed and disposed of.

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

(SANDEEP K. SHINDE, J.)