

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 486 OF 2022

Sonabai Ganpat Matre

.. Appellant

Versus

The State of Maharashtra and another

.. Respondents

Mr. Vaibhav N. Shinde, Advocate for the Appellant.

Mr. Y. G. Gujarathi, APP for Respondent No. 1.

Mr. Sanjay Gaikwad, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 29th NOVEMBER, 2022.

P C. :-

1. Heard learned advocate for the appellant, learned A.P.P. for State and learned advocate for respondent No. 2.

2. The FIR came to be lodged by respondent No. 2 with Police Station, Akhada Balapur, District Hingoli on 11.06.2022 bearing FIR No. 0240 for the offences punishable under Sections 324, 223, 504, 506, 34 of the Indian Penal Code (for short "I.P.C.") and Sections 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short "Atrocities Act"). In the FIR, allegations are made against three persons. Initially, the name of this appellant was not known and she was referred to as wife of one Ganpat

Matre who is accused No. 2. From the allegation it seems that the abuses in the name of caste are given by accused Nos. 1 and 2 that is Ganpat Matre and Munna Veer. So far as the role of this appellant is concerned, it is the allegation that she caught hold the hands of the informant and thereafter assaulted with hands and fists.

3. Learned advocate for the appellant thus makes submission that there is no specific allegation against the present appellant. There is no utterness by her in the name of caste. Further, he submits that she is falsely implicated in the offence. There is previous enmity between the parties etc. and prays for allowing the appeal.

4. Learned advocate for respondent No. 2 submits that the place of incident is a small village where everyone knows the caste of the persons in the village. Though there is no allegation that this appellant has uttered the word, but certainly it can be said that she has assaulted and she has also taken part in the incident alongwith other accused persons clearly shows that even she has intention to insult the informant in the name of caste etc.

5. Learned A.P.P. also opposes the appeal vehemently.

6. Considering the submissions and going through the contents of the FIR, it does appear that there is no allegation against the appellant

that she has insulted in the name of caste or she has uttered the words showing the caste of the informant.

7. Learned advocate for respondent No. 2 has relied upon the judgment of the Hon'ble Apex Court in a case of **Vilas Pandurang Pawar and another Vs. State of Maharashtra and others** reported in **(2012) 8 SCC 795** to show that bar under Section 18 of the Atrocities Act is applicable as the offence is made out.

8. This Court, however, finds that, in this case the judgment would not be applicable as no case is made out against the present appellant attracting the ingredients of Sections 3 (1) (r), 3 (1) (s) and 3 (2) (va) of the Atrocities Act. Hence, the following order.

ORDER

(I) In the event of arrest of the appellant, the appellant be released on bail on furnishing PR. bond and solvent surety in the sum of Rs. 15,000/- (Rs. Fifteen Thousand only) in connection with FIR No. 0240 dated 11.06.2022 registered with Akhada Balapur Police Station for the offences punishable under Sections 324, 223, 504, 506, 34 of the I.P.C. and Sections 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Atrocities Act.

(II) The appellant shall attend the police station as and when

required by the Investigating Officer and shall not bring pressure upon any of the witnesses and shall not tamper with the evidence.

(III) Criminal appeal is disposed of accordingly.

9. Learned advocate for respondent No. 2 is appointed through legal aid. He shall be entitled to receive the fees as per the rules.

(KISHORE C. SANT, J.)

P.S.B.