

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

CRIMINAL APPEAL NO. 579 OF 2022

**ARJUN @ BABA SHIVAJI SHENDGE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Appellants : Mrs. Lomte Ashwini Annasaheb
APP for Respondent No.1 /State : Mr. Y. G. Gujrati
Advocate for Respondent No.2 : Mr. P. P. More

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**CORAM : KISHORE C. SANT, J.
DATE : 17th OCTOBER 2022.**

Per Court :

Heard. learned Advocate for the Appellants, learned APP for State and learned Advocate for Respondent No.2.

1. Perused the FIR and record.
2. Learned Advocate for the Appellants submits that the Appellants are falsely implicated in this case. Though they had only gone to the Primary Health Centre seeking medical assistance, there was no reason to give abuses to the Informant in the name of caste. Looking at the

FIR, it is clear that the Appellants had been to there only for medical assistance and nothing more. The other allegations would not attract the provision of Atrocities Act. Learned Advocate for the Appellants relies upon the judgment in the case of **Vinod Vs. State of Maharashtra**, reported in LAWS (BOM)-2022-8-41, by inviting attention in Paragraph No.12. In that case, it is held that when no offence under Atrocities Act is disclosed, then the bar under Section 18 or 18-A would not get attracted. She further relies upon another judgment in the case of **Vijaymala w/o Tanaji Dolare & Ors. Vs. The State of Maharashtra & Anr.**, reported in 2020 ALL MR (Cri) 1835, by inviting attention in Paragraph No. 10 and 11. She submits that the abuses cannot be given in chorus. On factual aspects, she pointed out that there is no specific allegation as to which of the Appellants had exactly abused the Informant in the name of caste and has assaulted the Informant.

3. The learned Advocate for Respondent No.2 submits that the Respondent No.2 is a Health Worker and she has no reason to falsely implicate the Appellants. He submits that the offences appearing under Sections of IPC in this case, forms the part of schedule appended to the

Atrocities Act and because of fact that the offences are given the schedule, the provisions of Atrocities Act are attracted. The FIR cannot be doubted on the count of delay, when delay is properly explained. He submits that the incident has taken place in the public view that is in front of Primary Health Centre. Considering the gravity, he prays for rejection of this appeal.

4. The learned APP produced the papers of investigation and invited attention to the statements of the eye-witnesses. He submits that these witnesses came to the spot immediately on hearing the noise and their presence need not be doubted. These statements do show that the incident has actually taken place. He also shows from the record, the certificate issued by the Primary Health Centre showing that the Informant has suffered injuries.

5. Considering all the above aspects and considering that the ingredients of the offences under Atrocities Act are made out and therefore bar under Section 18 and 18-A is attracted. In view of this, Appeal is dismissed.

[KISHORE C. SANT, J.]