

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

CRIMINAL APPEAL NO. 661 OF 2021

**SHAKUNTALABAI PANDHARINATH PAWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Appellants : Mr. Patni Pramod Fulchand
APP for Respondent No.1/State : Smt. G. L. Deshpande
Advocate for Respondent No.2 : Mrs. Pratibha Suryawanshi

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CORAM : KISHORE C. SANT, J.

DATE : 30th SEPTEMBER 2022.

Per Court :

Heard. the learned Advocate for the Appellants, learned APP for State and learned Advocate (appointed) for Respondent No.2. Perused the FIR.

1. The learned Advocate for the Appellants submits that no case is made out attracting the provision of Atrocities Act. The Appellants are falsely implicated in this case, because of long standing dispute between the parties. He submits that there was a civil suit pending

between the parties, in which the Appellants succeeded. They have taken possession of the land by putting the decree for execution from the Informant and her family members. It is for this reason, the allegations are made. He pointed out that even on earlier occasion, there was an offence lodged at the instance of one Rahul Pawar, who happens to be in relation with the present Respondent No.2. He invited attention to some of the observations made in the earlier appeal. He pointed out that in the earlier appeal i.e. Criminal Appeal No.455/2020, the Appellant No.1 and 2 were granted protection on Anticipatory Bail. In that case, it is specifically observed that no provisions in the Atrocities Act are attracted against the Appellant No.1 and 2. So far as the Appellant No.3 and 4 in the earlier case, they were arrested and thereafter released on bail.

2. The learned APP produced on record the statements recorded by the Investigating Officer and in the record, there are also injury certificates. She submits that there are criminal antecedents against whom even on earlier occasion, the offence was registered under the Atrocities Act.

3. The learned Advocate for the Respondent No.2 also submits that by reading the FIR as it is, it clearly makes out the case attracting the provision of the Atrocities Act. So far as the role of Tulshiram Pawar is concerned, there are specific allegations that he assaulted. The role of Tulshiram Pawar as per the FIR is that he gave kick blows on the private part of Vandanabai and abused her.

4. Considering the FIR and the statements of the witnesses, including the statement of Police, it is seen that the offence is committed in the public place, when other persons were also present. There are utterances in the name of caste. The offence is clearly attracted so far as Appellant No.3 – Tulshiram is concerned. So far as the Appellant No.1 – Shakuntalabai and No.2 – Archana are concerned, the only allegation is that they have assaulted the Informant. Whereas the Appellant No.4 – Pandharinath Pawar only abused the Informant. Therefore, it is seen from the record, prima facie no offence under Atrocities Act appears to have been made out so far as Appellant Nos.1, 2 and 4 are concerned. Prima facie offence is clearly made out against the Appellant No.3. Hence the following order.

ORDER

- (i) The appeal to the extent of Appellant No.1 – Shakuntalabai, Appellant No.2 – Archana and Appellant No.4 – Pandharinath Pawar, is allowed.
- (ii) In the event of arrest of Appellant Nos. 1, 2 and 4 in connection with F.I.R. (Crime) No.161/2021 registered with Devgaon Police Station, they shall be released on bail on furnishing P. R. Bond in the sum of Rs.25000/- each, with one solvent surety in the like amount.
- (iii) The Appellants shall report to the concerned Police Station once in a week commencing from the month of October, 2022 between 11:00 am. to 01:00 pm.
- (iv) The appeal to the extent of Appellant No.3 – Tulshiram Pawar is dismissed.
- (v) Learned Advocate for Respondent No.2 is appointed through Legal Aid, she shall be paid Rs.5000/-.
- (vi) The observations are strictly for the purpose of this appeal.
- (vii) With these, the Criminal Appeal is disposed of.

[KISHORE C. SANT, J.]

Najeeb.