

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

CRIMINAL APPEAL NO.683 OF 2021

1. Rukmin Mohan Kokate
2. Jyoti Chandrakant Kokate
3. Mohan Bhanudas Kokate
4. Chandrakant Mohan Kokate ... **APPELLANTS**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Shri S.G. Bobade, Advocate for appellant
Shri R.B. Bagul, A.P.P. for respondent No.1 – State
Shri P.B. Gapat, Advocate for respondent No.2.
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CORAM : R. G. AVACHAT, J.

DATED : 24th January, 2022

ORDER :

This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the Act). The appellants claim to have apprehension of being arrested in connection with C.R. No.0305/2021, registered with Dhoki Police Station, District Osmanabad for the offences punishable under Sections 143, 147, 148, 149, 324, 323 and 506 of the Indian

Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard. Perused the First Information Report (F.I.R.) and gone through the police papers relied on.

3. The learned A.P.P. and the learned counsel appearing for the informant would submit that, the averments in the F.I.R. make out offence against the appellants herein. In view of Section 18 of the Act, there is bar to grant anticipatory bail. The statements of witnesses were read out for rejection of the appeal.

4. Learned counsel for the appellants would, on the other hand, submit that, there is a civil dispute. The appellants are in possession of the agricultural land. The respondent No.2 informant and her family members still unauthorisedly entered the land. According to him, a false F.I.R. has been lodged with a view to see the appellants are kept in jail. He, therefore, urged for allowing the appeal.

5. Two of the appellants herein are women. Appellant No.3 Mohan is 70 years of age. The F.I.R. has been lodged about 28 hours after the alleged crime. The informant

has stated in the F.I.R. that, the informant was on way to the field of Ratnamala Kokate for harvesting grass. The informant heard a sound of machine being in operation. She realised that, Soyabin was being processed in the machine in her field Gat No.234. The informant saw the appellants and two others operating the machine. The informant, therefore, questioned them. Thereupon the appellant Mohan and Chandrakant allegedly told the informant that they were from the clan of agriculturists. They abused her over her caste and asked her to leave the field. Co-accused Ashok Gaikwad also abused her. Appellants Mohan and Chandrakant assaulted the informant. The appellant Rukmin is alleged to have assaulted the informant with a sickle. The appellant Jyoti beat her up with fists and kicks. The appellant Mohan called co-accused Pandurang on phone. He came. He too abused the informant over her caste. When the informant asked her son Shashank to make a phone call to the police, the appellants and other accused persons fled. The informant then went to Osmanabad for treatment and thereafter lodged the report.

6. Admittedly, there is a dispute between the informant and her family on one hand and the appellants on the other over the agricultural land Gat No.234. The trial

Court had granted injunction restraining the appellants from entering into the land. It, however, appears that, the learned District Judge has stayed the execution of the degree of injunction. It is just not imaginable that two of the appellants would abuse the informant in chorus over her caste. The co-accused Ashok, who had abused and assaulted, has already been arrested and released on bail as well. The injury certificate indicates the informant to have suffered abrasion to her left wrist joint. The injury was said to have been caused by hard and blunt object. The same runs counter to the case of the informant that she was assaulted with a sickle. Since there is a civil dispute over the property between the two families, possibility of giving a colourful version of the alleged incident cannot be ruled out. As such, the veracity of the allegations in the F.I.R. is in doubt. I am, therefore, inclined to allow the appeal. Hence the order :

ORDER

- (i) The Criminal Appeal is allowed.
- (ii) The order impugned is hereby set aside.
- (iii) In the event of arrest of the appellants in connection with C.R. No.0305/2021, registered with Dhoki Police Station,

District Osmanabad for the offences punishable under Sections 143, 147, 148, 149, 324, 323 and 506 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they be released on executing P.R. bonds in the sum of Rs.15,000/- (Rupees fifteen thousand) each with one surety each in the like amount.

(iv) The appellants shall not tamper with the prosecution evidence.

(v) The appellants shall appear before the investigating officer as and when required.

**(R. G. AVACHAT)
JUDGE**

fmp/-