

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

CRIMINAL APPEAL NO. 690 OF 2021

1. Balaji Kalyan Ukrande
Age; 35 years, Occu.: Agri.,

2. Prasad Kalyan Ukrande
Age: 30 years, Occu.: Agri.,

Both R/o Terkheda, Tq. Washi,
Dist. Osmanabad

..APPELLANTS

VERSUS

1. State of Maharashtra
Through Police Station,
Yermala, Dist. Osmanabad

2. Dhanashree Rajendra Magar
Age: 24 years, Occu.: Education,
R/o Tekheda, Tq. Washi,
Dist. Osmanabad

..RESPONDENTS

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Mr. S.J. Salunke, Advocate for appellants
Mrs. G.L. Deshpande, A.P.P. for respondent no.1- State
Mr. Deepak Rajput, Advocate appointed for Respondent No.2

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**CORAM : R.G. AVACHAT, J.
DATED : 28th JANUARY, 2022**

PER COURT :

1. This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act'). The

challenge herein is to the order rejecting application for anticipatory bail. The appellants claim to have an apprehension of arrest in connection with Crime No. 166 of 2021 registered with Yermala Police Station, Dist. Osmanabad for the offences punishable under Sections 354, 143, 147, 149, 323 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Act.

2. Heard. Perused the First Information Report ('F.I.R.') and related papers.

3. Learned counsel for the appellants would submit that there is a property dispute between the appellants on one hand and the informant and her family members on the other. Order of injunction has been operating against the informant and her family members. Father of the appellants had informed the concerned police station that provisions of the Act are likely to be misused by the other side so as to ensure them behind the bars. According to the learned counsel, the F.I.R. has been lodged with false and concocted versions. He, therefore, urged for allowing the appeal.

4. Learned A.P.P. and learned counsel for the informant would, on the other hand, submit that the appellants and their family members have beaten up the informant, her mother and father as well. They also abused

them over their caste. There are two incidents. The appellants had entered the house of the informant, abused her over her caste and attempted to outrage her modesty as well. The informant was assaulted with a stick. According to learned counsel, a long standing dispute is a double edged weapon that is the cause for the present incident. The appellants, therefore, do not deserve grant of anticipatory bail.

5. Considered the submissions advanced. The F.I.R. has been lodged on the next day of the incident dated 20th November, 2021. The appellants and their family members are the neighbours of the informant. It is alleged in the F.I.R. that construction work of the house of the appellants was underway. Electricity supply of the house of the informant was disconnected at the instance of the father of the appellants. The informant's father, therefore, had been to the house of the appellants to get the electricity supply restored. At that time, all the family members of the appellants assaulted and abused father of the informant. Informant's mother, therefore, went there. She too was assaulted. This incident took place by 07.51 p.m. Informant's brother was, therefore, informed on telephone. He came and asked the parents to go to the police station and lodge report. The informant was alone at home. Thereafter, both the appellants came to the informant's house and abused her over her caste. She came out of the house. Appellant No.2 – Prasad assaulted the informant with a stick. Appellant No.1 – Balaji

instigated him and urged him to drag her. Again the informant narrated the happenings to her brother. He came and took her to the police station. F.I.R. thereafter came to be lodged.

6. The appellants may prima facie appear to have committed the offence. The facts, however indicate that all is not well between the two families. Father of the appellants had purchased a piece of land from the father of the informant. There is dispute over the said plot between the two families. A civil suit has been filed by the father of the appellants. There is an order of injunction in operation against the informant's family. Father of the appellants has also moved an application for keeping the informant and her family members in civil prison for breach of injunction order. There is also record to indicate that on the date of the incident itself, the father of the appellants filed his affidavit in his application before the Court for taking action for breach of order of injunction. About three months before the alleged incident, the appellants' father moved an application to the Superintendent of Police complaining that the informant and her family members have been threatening to tack action against him and his family members under the provisions of the Act.

7. As such, the material on record undoubtedly indicate the informant to have a reason to grind an axe against the appellants and their

family members. Veracity of the allegations in the F.I.R. is under doubt. In this view of the same, appeal succeeds. Hence, the following order :-

ORDER

- (i) Criminal appeal is allowed.
- (ii) Order impugned herein is hereby set aside.
- (iii) In the event of arrest of the appellants in connection with Crime No. 166 of 2021 registered with Yermala Police Station, Dist. Osmanabad for the offences punishable under Sections 354, 143, 147, 149, 323 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of 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.
- (vi) Fees of Mr. Deepak Rajput, learned counsel appointed for Respondent No.2 is quantified at Rs.5,000/-.

(R.G. AVACHAT, J.)