

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 479 OF 2022

Chandrakant Sitaram Desai & Ors. ...Appellants

Versus

The State Of Maharashtra & Anr. ...Respondents

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Mr. R. D. Suryavanshi, Advocate for the Appellant.

Mr. Arfan Sait, APP for the Respondent-1 – State.

Ms. Priyanka H. Chavan, Legal Aid for respondent No.2.

Mr. Vinayak Kesarkar, Police Sub-inspector, Vengurla Police station, Sindhurdurg, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 22nd July, 2022

PC :

1. This appeal is preferred by the appellants under section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The appellants are apprehending arrest in C. R. No. 37 of 2022 registered with Dodamarg Police station on 19.04.2022 for the offences punishable under Sections 323, 324, 504, 506 read with 34 of the Indian Penal Code and Sections 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The gravamen of indictment against the Appellants is that on 19.04.2022 at about 6.00 p.m., the appellant Nos. 1 and 2 accosted the respondent No.2 (first informant). While respondent No.2 was inquiring with appellant Nos.1 and 2 as to why they acted in breach of the order passed by the Court in the civil proceedings, the appellant No.1- Chandrakant Sitaram Desai pushed the respondent No. 2 and the appellant No.2 assaulted him by means of stick. The appellant No.1, thereafter, abused and intimidated the respondent No.2 and threatened to kill him. The appellant No.3 who is the cousin of appellant No.1, and appellant No.4 who is the nephew of appellant No.1 also gave threat and abused and intimidated respondent No.2 with reference to his caste.

4. The learned advocate for the appellants submitted that the first information report was lodged by the respondent No.2 as a counter blast to the report lodged by the appellant No.2 being FIR No.36 of 2022 registered with Dodamarg Police Station for the offences punishable under Sections 324, 352, 323, 504 and 506 read with Section 34 of the Indian Penal Code against the respondent No.2 and Mr. Ladu Pilgaonkar, who is cited as a witness in the instant FIR for having assaulted and intimidated her and the

appellant No.1. Injury certificate reveals that the appellant No.1 had availed medical treatment at Dodamarg Rural Center at about 5.00 p.m. It was further submitted that in view of the inimical nature of the relationship between the parties on account of the disputes leading to civil and criminal proceedings, the appellants have been falsely roped in.

5. The copy of the FIR No. 36 of 2022 indicates that on the alleged day of the occurrence, the appellant No.2 had lodged a report in respect of the dates and incidents. In the FIR in question, the respondent No.2 sought to explain the injuries sustained by the appellant Nos.1 and 2 by alleging that they had a fall from a motorcycle and, thereafter, the incident in question occurred. The FIR in question came to be lodged on the next date of the alleged occurrence.

6. Learned APP submitted that specific allegations are attributed to the appellants. The appellant No.1 has criminal antecedents. The offence under the atrocities Act is made out. The incident had occurred within public view. There is bar under Section 18 of the Act were granting anticipatory bail. Investigation is in progress. Custodial interrogation is necessary. The injured was suffered head injuries. Medical certificate supports the version of the complainant.

7. Learned advocate for respondent No.2/complainant submits that there are specific allegations about abusing the complainant on the basis of caste. The appellants are not entitled for anticipatory bail.

8. The previous complaint referred as antecedents of the appellant No.1 was lodged by wife of the complainant in the present case. It is pertinent to note that the FIR was lodged on 19.04.2022 at the instance of appellant which is first in point of time. The medical case papers indicate injuries sustained by the appellant No.1. Subsequently, the FIR which is subject matter of this appeal was lodged at the instance of the complainant. The witness referred to by the prosecution came to the spot after the alleged incident of caste abuses. There is no material to support that caste abuses were made in the presence of independent person. Bar under Section 18 of the Act would not be impediment to allow the appeal. The appellant Nos.2, 3 and 4 were granted interim relief by this Court vide order dated 05.05.2022 whereas the appellant No.1 granted interim protection on 27.06.2022.

9. Considering all aforesaid circumstances, the appeal can be allowed.

ORDER

- (i) Criminal Appeal No. 479 of 2022 is allowed.
- (ii) Order dated 28/04/2022 passed by Special Court, Sindhudurg rejecting application for anticipatory bail is set aside.
- (iii) In the event of arrest of the appellants in connection with C.R. No. 37 of 2022 registered with Dodamarg police station, the appellants be released on bail on executing PR bond in the sum of Rs. 50,000/- each with one or more sureties in the like amount.
- (iv) The appellants shall appear before the Investigating Officer on 28th, 29th and 30th July 2022 between 11.00 am to 1.00 pm and thereafter as and when called for till filing of charge-sheet.
- (v) The appellants shall not tamper with the evidence.
- (vi) The appellant shall maintain peace and tranquility. They shall not intimidate complainant and his family members.
- (vii) Appeal stands disposed of.

(PRAKASH D. NAIK, J.)