

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 254 OF 2022**

Mahesh Ankush Vyavhare ...Appellant
Versus
The State Of Maharashtra And Anr. ...Respondents

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Mr. Vikas B. Shivarkar, Advocate for the Appellant.

Mr. Balwant V. Salunke, Advocate for the Respondent No.2.

Mr. S.R. Agarkar, APP for the Respondent – State.

Mr. Asif Dilawar Atar, Police Head Constable, Tembhurni Police Station,
Solapur Rural.

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd AUGUST, 2022.

PER COURT:

1. Learned counsel for the appellant submits that the allegations as against the appellant are false and baseless. There are several contradictions and inconsistencies in the statements of the witnesses. The police have already filed the charge-sheet.

2. The Appellant was granted interim relief by the Sessions Court vide order dated 28th November, 2021 on certain conditions.

3. Learned APP on instructions submitted that on completing investigation the police had filed charge-sheet before the concerned Court and interim order passed by the Sessions Court was executed.

4. Learned counsel for the Respondent No.2 submits that the condition imposed while granting interim reliefs are being flouted

by the Appellant. The offence is of serious nature. There are lapses in investigating the crime. The complainant was required to follow up with various authorities for registering appropriate offences.

5. Learned counsel Mr. Shiverker appearing for the Appellant submitted that the issue relating to the property is pending before the Civil Court. Adverse orders are passed against the complainant by revenue authority. Hence, any condition relating to the property may not be imposed by this Court.

6. It is pertinent note that interim relief was granted by this Court on 10th March, 2022. During the pendency of the application before the Sessions Court interim relief was granted to the Appellant vide order dated 8th November, 2021.

7. C.R. No. 690 of 2021 was registered with Tembhurni Police Station under Sections 504, 506 Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. The alleged incident regarding abuses on caste had occurred on 19th September, 2021. The incident had occurred on account of property dispute. The incident had occurred in the presence of complainant and his brother. There is no reference to presence of any independent person at the time of incident in the First Information Report. The

second incident had occurred on 12th October, 2021. This incident does not relate to abuses in caste. First Information Report was lodged on 2nd November, 2021.

8. Considering the averments in the First Information Report and the fact that interim protection granted to the Appellant and also considering the fact that the charge-sheet is already filed.

9. This appeal can be allowed.

ORDER

- i. Criminal Appeal No.254 of 2022 is allowed.
- ii. Order dated 4th March, 2022 is set aside passed by Sessions Court.
- iii. The interim order dated 10th March, 2022 passed by this Court is confirmed.
- iv. The Appellant shall not tamper with the evidence.
- v. He shall not approach and threaten the complainant or any other relatives of the complainants and witnesses.
- vi. The appeal stands disposed of.

(PRAKASH D. NAIK, J.)