

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

CRIMINAL APPEAL NO. 385 OF 2022

Mohanlal Devichand Jain ...Appellant
Versus
The State of Maharashtra and Anr. ...Respondents

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Mr. Ganesh Gupta, Advocate for the Appellant.
Ms. Ameeta Kuttikrishnan, Advocate for Respondent No.2.
Mr. A. R. Patil, APP for the Respondent – State.
Mr. A. S. Pawar, (PSI) Mangaon Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 28th SEPTEMBER, 2022

PC :

1. This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (herein after referred to SC/ST (Prevention of Atrocities) Act). The appellant is apprehending arrest in connection with C.R. No. 69 of 2022 registered with Mangaon Police Station District Raigad for offences punishable under Sections 3(1)(b) and 3(1)(c) of SC/ST (Prevention of Atrocities) Act. The First Information Report was registered on 29th March 2022.

2. The complainant has alleged that the appellant is his neighbor and owner of Swastik Apartment Building. Despite repeated request made by the informant, the Appellant did not

maintain the drainage pipeline of Swastik Apartment Building due to which human excrement and other filthy waste material overflowed from the drainage pipeline and which was causing inconvenience to the informant and his patients visiting his hospital.

3. The Appellant preferred an application for anticipatory bail before the Court of learned Additional Sessions Judge Mangaon-Raigad. The said application was rejected vide order dated 7th April 2022.

4. Learned Advocate for the Appellant submitted that the complaint is false. Offences under Sections 3(1)(b) and 3(1)(c) of the Atrocities Act are not made out. Custodial interrogation of the Appellant is not necessary. Bar under Section 18 of the Atrocities Act will not be attracted. There is civil dispute between Appellant and the informant. Flow of sewage is not an act perpetrated by Appellant but the technical flow which is beyond the control of Appellant. The Appellant himself has suffered inconvenience due to over flow of sewage.

5. Learned APP submitted that the offence is made out. In view of Section 18 of the Atrocities Act, the application is not maintainable. The Sessions Court has rightly rejected the application for anticipatory bail. The accused is the neighbour of complainant. Despite repeated requests, accused did not maintain drainage

pipeline of Swastik Apartment Building which had caused over flow of sewage from the drainage pipeline causing inconvenience to the complainant and his patients.

6. Learned Advocate for Respondent No.2 has opposed the grant of any relief to the Appellant. It is submitted that the complainant is Doctor by profession. The accused has committed deliberate Act of causing inconvenience to the complainant. Despite repeated requests made to the accused, he did not take any steps. There was over flow of sewage causing inconvenience to the complainant and his patients, who are visiting his hospital. The offences under Section 3(1)(b) and 3(1)(c) of the SC/ST (Prevention of Atrocities) Act are made out. Learned Advocate for the complainant has relied upon several photographs of the spot of incident to submit that there is over flow of drainage pipeline.

7. It is alleged that the Appellant is the owner of Swastik Apartment Building. He has not carried out the repair work of drainage system which has resulted in over flowing of the pipeline. The photographs produced for perusal indicate that there was over flow of sewage from the drainage pipeline. The photographs also indicates that the repair work is being carried out at the spot of incident. The repairs work is undertaken apparently by the Appellant. The grievance of the complainant is that proper repairs

are not carried out. It does not appear that there was an attempt on the part of the accused to dump, excreta sewage etc. in the premises and at the entrance of the premises occupied by members of SC/ST as enumerated in Section 3(1) (b) of the Atrocities Act with intent to cause injury, insult or annoyance to any members of SC/ST as stipulated in Section 3(1)(c) of the said Act. *Prima facie* the offences are not made out. Hence bar under Section 18 of the Act would not be attracted.

ORDER

- (i) Criminal Appeal No.385 of 2022 is allowed and disposed off.
- (ii) In the event of arrest of the appellant in connection with C.R. No. 69 of 2022 registered with Mangaon Police Station, Raigad, the appellant be released on bail on executing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The appellant shall report Investigating Officer as and when called for;
- (iv) Impugned order dated 07.04.2022 passed by Additional Sessions Judge, Raigad rejecting application for anticipatory bail is set aside.

(PRAKASH D. NAIK, J.)