

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

CRIMINAL APPEAL NO.466 OF 2022

Parag Vishram Pashte	.. Appellant
<i>Versus</i>	
State of Maharashtra and Anr.	.. Respondents

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Mr.Sanjeev Kadam a/w. Mr.S.N. Biradar, Advocate for the Appellant.

Mr.A.R. Patil, APP for the Respondent No.1-State.

Mr.Nitin S. Satpute, Mr.Surya Srivastav, Advocate for Respondent No.2.

PSI S.K. Bhopale, Vikramgad Police Station, Palghar, present.

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CORAM : PRAKASH D. NAIK J.

DATED : JUNE 15, 2022.

P.C. :

Admit.

2 Appeal is taken up for hearing.

3 The appellant is apprehending arrest in connection with C.R.No.26 of 2022, registered with Jawhar Police Station, Palghar, for the offence punishable under Section 3(1)(r), 3(1)(s), 3(1)(p), 3(1)(q), 3(1)(u), 3(v) and 3(2) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SC & ST Act", for short)

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and under Sections 384, 385, 452, 503, 504, 506(2), 154 and 4(2) of Indian Penal Code (“IPC”, for short).

4 The FIR was registered on 20th February, 2022. The complainant has alleged that he is working Divisional Manager Class-I Maharashtra Co-operative Tribal Development Corporation Division, Jawhar. The corporation is established for development and enlistment of Adivasi/Tribal in the region. Scheme is implemented to purchase rice/paddy and other grains from tribal at minimum fair prices as per norms and processing the same through mill, supply such rice to FCI to be distributed to Rationing agencies on 3rd October, 2021, and 4th October, 2021, he received 5 to 6 calls from person named Parag Pashte (applicant) unknown to him and he demanded Five Lakhs rupees from him. The complainant called his associate near him and put his phone on speaker mode and asked the reason for demand. The applicant stated that he is politician and require fund for election. The complainant was threatened that in the event he fails to pay the amount, he would be exposed for corruption. The complainant refused to pay the amount. On 13th January, 2022, the applicant approached the complainant and demanded money from complainant to which he refused. On 14th January, 2022, the applicant went to Godown and threatened store keeper. The applicant than informed

him that he along with editor of Samarthan Live YouTube channel came to Godown. Complainant told accused that action would be taken for trespass. Shooting was conducted in godown and transmitted photo of complainant. On 19th January, 2022, the editor of YouTube Navnath Gurav visited office of complainant and demanded five lakh rupees. Complainant was abused on caste. Thereafter, accused made complaints to District Collector..

5 The appellant had preferred an application for anticipatory bail before the Court of Sessions, Atrocities Court, Thane, which was rejected by order dated 11th April, 2022.

6 Mr.Sanjeev Kadam, learned counsel for the appellant submits that the FIR, is false. The appellant has been falsely implicated in this case. The abuses on the caste of are attributed to other accused. The complainant is habitually filing complaints against several persons. Similar complaints were filed against the other persons *vide* C.R.No.97 of 2021 on 11th November, 2021 for the offence punishable under Sections 501 and 506 of IPC. Subsequently, provisions of Atrocities Act were invoked in the said FIR. The accused implicated in the said FIR had approached the Court by preferring Appeal seeking anticipatory bail, which Appeals were allowed by

order dated 12th January, 2022 and 21st January, 2022. The offence of criminal trespass is not made out as the entry was in the Government property. Panchanama of visit was recorded. The offence under Section 384 is not made out, since there was no parting of amount. He relied upon the decision of the Supreme Court in the case of *Isaac Issac Isanga Musumba and Ors. Vs. State of Maharashtra and Ors.*¹ Complaints were filed against the present complainant by various persons including agriculturists and the political parties. The bar under section 18 is not applicable against the appellant. Abuses on caste are not attributed to appellant. Custodial interrogation of the appellant is not required.

7 Learned APP submitted that the investigation is in progress. Specific overtact has been attributed to the appellant. The complaint refers to the threats issued by the appellant and demand of money by the appellant. The incident occurred in the Godown is fortified by the statements of two other eye witnesses. Their statements are recorded. The accused-appellant is involved in serious offence. The allegation of extortion are attracted in this case. Custodial interrogation of the appellant is necessary.

8 Learned advocate for respondent no.2 submitted that on

1 (2014)15 SCC 357

reading FIR, *prima facie* case is made out for the offence registered against the appellant. Calls were made by the appellant demanding money. Appellant had entered into the Godown and committed the act, as mentioned in the FIR. The appellant has pretended himself to be a Government servant when he had entered the Godown. The investigation is in progress. The panchanama was conducted by private persons. It has no sanctity of law. Accused are not government servants. Inquiry was conducted against the complainant and report dated 24th January, 2022, mentions that the transactions are regular and there are no illegality submitted by the complainant or others. The accused had threatened that he would meet the complainant. Subsequently, the accused were involved in defaming the complainant. False complaints are lodged against him. He has been abused on the basis of caste. There is bar under Section 18 of the Atrocities Act for exercising powers under Section 438 of Cr.P.C.

9 In the rejoinder learned counsel for the appellant submitted that the District Collector Thane has forwarded letter to the Managing Director Tribal Development Department to conduct the inquiry against complainant.

10 I have perused the FIR. The complainant has invoked the

provisions of Atrocities act as well as the offences under the penal code. On perusal of the documents annexed to this Appeal, it appears that complaints were made against the complainant. The alleged incident relating to abuse on caste had occurred on 19th January, 2022. The alleged caste abuses were not attributed to the appellant. The other allegations are in respect of the demand of money. The visit to the Godown had purportedly occurred on 14th January, 2022. According to the complainant, the threats and the demand of money were made prior to that. However, FIR was registered on 20th February, 2022. It is also apparent from the record annexed to the Appeal that the FIR was lodged against other persons who have granted protection under Section 438 of Cr.P.C. by this Court. The bar under Section 18 of the Atrocities Act would not be attracted against appellant for grant of relief in this Appeal, moree particularly, considering the fact the allegation of caste abuses were not attributed to the appellant. For the purpose of investigation *qua* offences, custodial interrogation of the appellant is not necessary.

11 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Appeal No.466 of 2022, is allowed;

- (ii) The order dated 11th April, 2022, passed by Additional Sessions Judge, Atrocities Special Court, Thane, is set aside;
- (iii) In the event of arrest of appellant in C.R.No.26 of 2022, registered with Jawhar Police Station, Palghar, the appellant be released on bail on executing P.R.Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (iv) The appellant shall report investigating officer on 20th, 21st and 22nd June, 2022, between 11:00 a.m. to 01:00 p.m., and, thereafter, as and when called for;
- (v) Criminal Appeal No.466 of 2022, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)