

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

CRIMINAL APPEAL NO. 347 OF 2021

Kuldeep Singh S/o. Jaswant Sinh Hira	...Appellant
Versus	
The State Of Maharashtra And Anr.	...Respondents

**WITH
CRIMINAL APPEAL NO. 481 OF 2021**

Sulinder Kaur Jaswant Singh Hira	...Appellant
Versus	
The State Of Maharashtra And Anr.	...Respondents

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Mr. Ashok M. Saraogi, Advocate for the Appellants in both Appeals.
Mr. Tanveer Khan, Advocate for Respondent No.2.
Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM	:	PRAKASH D. NAIK, J.
DATE	:	29th JULY, 2022.

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PC:

1. These Appeals are preferred under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as Atrocities Act) challenging the order dated 26th March 2021 passed by learned Additional Sessions Judge, Kalyan rejecting A.B.A. Nos.435 of 2021 and 443 of 2021 preferred by appellants.
2. The appellants are apprehending arrest in F.I.R. No.I-190 of 2021 registered with Kalyan Railway Police Station for offences

punishable under Sections 306 and 34 of the Indian Penal Code. Subsequently, Section 3 (2)(v) of Atrocities Act was invoked.

3. The case of the prosecution is that, the first informant is the wife of deceased Sunil Narayan Buchade, who had committed suicide on 5th February 2021 on the railway track of Ulhasnagar to Ambernath. The deceased was working as gas cylinder delivery boy in Harjas Gas Agency for 10 to 11 years. Smt. Sulinder Kaur is the owner and Kuldeepsing J. Hira is the Manager of the said Gas Agency. It is alleged that, the accused made false allegations against the deceased that, he committed theft of gas cylinder. They gave false information to the customers about it and defamed him. Under the pressure of owner of the gas agency, the deceased had deposited Rs.70,000/-. However, he was tortured. The deceased had written suicide note stating that the owner and manager of the gas agency made false allegations against him that he committed theft of gas cylinder and instigated customers against him.

4. The appellants preferred an application for anticipatory bail before the Sessions Court. Both the applications were rejected vide order dated 26th March 2021.

5. Learned Advocate for the Appellants submitted that the offence under Section 306 of IPC is not made out. Offence under the provisions of Atrocities Act has been invoked as the victim was

belonging to the Scheduled Caste and for commission of alleged offence against the members of Scheduled Caste. This is not the case of abuses on caste of the victim. Assuming the allegations to be true, it would not amount to instigation to commit suicide. Custodial interrogation of the appellants is not necessary. The suicide note was allegedly written on 1st February 2021 and the victim had committed suicide on 5th February 2021. If the deceased had not committed the act of theft, there was no reason to deposit money as contended by first informant. Making allegations of theft does not amount to abetment to commit suicide. The appellant in Criminal Appeal No.347 of 2021 has filed affidavit stating that the complainant had demanded balance dues payable to her late husband. The appellants has responded to the said requisitions and the demand draft of Rs.1,42,460/- was kept ready. However it was not accepted by the complainant. The complainant then wrote the letter dated 17th June 2021 requested that the full and final payment may be removed from the writing prepared by them. The appellants have responded to the said letter vide correspondents dated 22nd June 2021.

6. Learned APP and learned Advocate for complainant submitted that the offence is of serious nature. Victim was harassed by accused. Accused instigated him to commit suicide. Customers

were informed that the victim has committed theft of cylinder. The complaints filed by customers after the suicide. The victim had written suicide note blaming the accused. Custodial interrogation of the appellants is necessary.

7. From the factual aspects it is evident that the victim was employed with the accused since last several years as delivery boy. It is alleged that he was blamed by accused for committing theft of cylinder. Since the customers were making grievance about delivery of cylinders, the victim was blamed by the accused and the customers were informed that he has committed theft of cylinders. The provisions of Atrocities Act were invoked, since the victim belongs to scheduled caste. Prima facie it is debatable whether section 306 would be attracted in this case. Custodial interrogation of the accused is not necessary. Hence, I pass the following order:-

ORDER

- i. Criminal Appeal Nos. 347 of 2021 & 481 of 2021 are allowed and disposed of;
- ii. Order dated 26th March, 2021 passed in Anticipatory Bail Application No.435 of 2021 by Additional Sessions Judge, Kalyan are set aside;
- iii. In the event of arrest of appellants in C.R. No.190 of

2021 registered with Kalyan Railway Police Station, the appellants be released on bail on furnishing P.R. Bond of Rs.20,000/- with one or two local sureties in the like amount;

iv. The appellants shall report investigating officer as and when called;

v. The appellants shall not tamper with the evidence or pressurise prosecution witnesses.

(PRAKASH D. NAIK, J.)