

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

CRIMINAL APPEAL NO. 521 OF 2022

Sunil alias Sagar Sadashiv Kumbhar ...Appellant
Versus
1. State Of Maharashtra
2. Sharda Bhaskar Vadavrao ...Respondents

....

Mr. Shailendra Singh a/w Mr. Balwant Salunkhe, Advocate for the Appellant.

Mr. Makarand Kale, Advocate for Respondent No.2.

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

**CORAM : PRAKASH D. NAIK, J.
DATE : 13th JULY, 2022.**

PER COURT:

1. Heard both sides. The appeal is taken up for final hearing.
2. This is an appeal under Section 14(A) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the SC/ST (Prevention of Atrocities) Act”). The application for bail preferred by appellant has been rejected by Special Judge (cases under SC/ST (Prevention of Atrocities) Act) and Additional Sessions Judge by order dated 23rd March, 2022.
3. The First Information Report (for short ‘FIR’) is registered vide C.R. No.267 of 2021 with Haveli Police Station, Pune for offences punishable under Sections 306, 498-A, 323, 504, & 506

r/w Section 34 of Indian Penal Code (for short “IPC”) and Sections 3(1)(r)(s), 3(2)(va), 3(2)(v) of the SC/ST (Prevention of Atrocities) Act at the instance of Respondent No.2.

4. The FIR is lodged on 13th December, 2021 by the mother of the victim. It is alleged that the complainant's daughter was married in 2012. However, due to differences with her husband, she left matrimonial house and returned to parental home. She filed Divorce Proceedings in the family Court at Pune. At that time, she got acquainted with appellant. They fell in love. They performed marriage in April – 2021. The appellant was aware that the complainant belongs to Scheduled Caste. After the marriage, the appellant started ill treating complainant's daughter. She was assaulted and threatened by appellant. On 28th August, 2021, victim called her brother and informed that, the appellant has assaulted her. He called the appellant and asked him about it. She was brought to complainant's house. Due to fear they did not lodge complaint. The complainant's daughter informed complainant that she was ill treated and abused by appellant and his family. The complainant's son gave call to appellant. He was abused by him on the basis of caste. The complainant's daughter (deceased) was working at Pune. On 11th December, 2021, the

complainant's daughter had attended her work place. When the complainant gave call to her, she informed that accused had visited her office and in the presence of staff she was abused by him. She told complainant that she is visiting her aunt's place. Thereafter she did not respond. Subsequently, it was learnt that she committed suicide at Resort by hanging. FIR was registered. Suicide note was recovered. Charge-sheet was filed.

5. Statement of complainant was recorded on 13th December, 2021. FIR was registered on 14th December, 2021. The appellant was arrested on 14th December, 2021. The other accused had preferred an application for anticipatory bail which has been allowed by the Special Court. On completing investigation, charge-sheet was filed.

6. Learned Advocate for the appellant submitted that, no offences under the SC/ST (Prevention of Atrocities) Act are made out. The allegations of harassment and cruelty are after thought. The appellant had lodged N.C. complaint on 26th August, 2021 against the deceased stating that she had threatened that she would commit suicide. The allegations on the basis of caste are not supported by independent witness. The statement of the co-employees of the deceased were recorded. Those statements are

completely silent with regards to the alleged abuses. The investigation is completed and the charge-sheet has been filed. There are no criminal antecedents against the appellant. Further detention of the appellant is not required.

7. Learned APP submitted that the offences as alleged against the appellant are made out. Statements of witnesses were recorded during the course of investigation. Suicide note implicates appellant. The victim was compelled to commit suicide. The Special Court while rejecting the application for bail had assigned reasons indicating the involvement of the appellant.

8. Learned Advocate for Respondent No.2 – complainant submitted that the suicide note itself indicate the nature of harassment caused to the deceased. The incident of suicide had occurred within one year from marriage. The complainant has referred to the abuses on the basis of caste. The offence is of serious nature. There is evidence against the appellant. Hence, the appeal may be rejected.

9. The first informant is the mother of deceased. The marriage was performed between the appellant and the deceased on 27th May, 2021. The case of the prosecution is that the victim was harassed and subjected to ill treatment by all the accused. The co-

accused had preferred an application for anticipatory bail which was allowed. It is alleged that the accused/appellant had visited the office of victim and she was abused by appellant. She left the office and committed suicide at resort by hanging. The statements of three co-employees of deceased were recorded during the course of investigation. Those statements are silent about any abuses in their presence to victim. The alleged incident had occurred on 11th December, 2021. Statement of complainant was recorded on 13th December, 2021. FIR was registered on 14th December, 2021. Investigation is completed and the charge-sheet is filed. Suicide note does not refer to any abuses on caste. The alleged abuses on caste were allegedly made by accused on telephone to brother of accused. Investigation is completed. Charge-sheet is filed. Further custody is not required. There are no criminal antecedents against the appellant.

10. Hence, I pass the following order:

ORDER

- i. Criminal Appeal No.521 of 2022 is allowed;
- ii. The appellant is directed to be released on bail in connection with C.R. No.267 of 2021 registered with Haveli Police Station Pune on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- iii. The appellant shall report Haveli Police Station, Pune once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- iv. The appellant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of six weeks in lieu of surety.
- v. The appellant shall not tamper with the evidence.
- vi. The appellant shall attend trial Court regularly on the date of hearing of the case unless exempted by the Court for some reason.
- vii. Appeal stands disposed of accordingly.

(PRAKASH D. NAIK, J.)