

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

CRIMINAL REVISION APPLICATION NO. 351 OF 2022

Snitil Ganpat Mandhare ...Applicant
Versus
State of Maharashtra And Anr. ...Respondents

....

Mr. Raviraj P. Paramane, Advocate for the Applicant.

Mr. M.G. Patil, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
DATE : 14th SEPTEMBER, 2022.

PER COURT:

1. The applicant has been prosecuted for the offences under Sections 323 and 504 r/w 34 of Indian Penal Code (for short 'IPC') and Sections 3(1)(r)(s)(Za)(A),(C) of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act.
2. The First Information Report (for short 'FIR') was registered by Respondent No.2 on 14th March, 2020. On completing investigation charge-sheet is filed.
3. The applicant preferred an application for discharge before the Sessions Court which has been rejected vide order dated 11th April, 2022.
4. The first informant has alleged that she belongs to Budhist Caste. She is married to Vikas Mhaske who belongs to Maratha Caste. Ganpat Mandhare, Sugandha Mandhare, Atul Mandhare,

Smitil Mandhare (applicant) used to abuse her on caste in February, 2020, while informant was washing clothes alongwith others at well, Ganpat Mandhare and Smitil Mandhare who were passing from the side of well on motorcycle, halted there and Ganpat Mandhare questioned her for washing clothes at well and told her that she had polluted the water from well. On 13th March, 2020 there was Palanquin procession in the village. The applicant and his brother and several other persons had participated in the procession. The complainant also had joined the procession. At that time Atul Mandhare stated that, informant had polluted well, and now polluting deity, there is not reason for her to join procession. Both of them had polluted their caste. Informants husband was assaulted. She was abused on caste. The appellant supported Atul Mandhare who is his brother and abused informant.

5. Learned Advocate for the applicant submits that on perusal of the FIR and the other documents no offence under the Atrocities Act is made out. The learned Sessions Judge ought to have allowed the application for discharge. The caste abuses are attributed to the co-accused. The FIR and the statement of the witnesses refers to the presence of the applicant at the scene of offence and alleged that he has supported of the brother and abuse the complainant.

However, the abuses are not relating to the caste of the complainant. There is no evidence to proceed against the applicant. Reliance is placed on the decision of this Court in the case of Shankar Gaikwad V/s Ramesh Waghmare and Ors., wherein the FIR registered against the accused was quashed on the ground that there were no abuses on caste. It is submitted that there is enmity between the applicant and the family members of the complainant. Brother of applicant lodges FIR on 14th March, 2020 vide C.R. No. 12 of 2020 for offences under Sections 147, 143 and 323 of IPC. Several complaints are lodged against each other. Father of applicant is murdered by opponents and FIR under Section 302 of IPC has been registered. At the most the applicant can be prosecuted for the offence under Section 504 of IPC.

6. learned APP submitted that the presence of the applicant has been indicated at the scene of offence. The first informant has categorically stated that when the complainant had joined the procession the brother of the applicant abuse her on the basis of caste and he was supported by the applicant. This incident is witnessed by other persons. Their statements were recorded during the course of investigation which supports the version of the complainant. Submissions advanced by the counsel for the

applicant can be agitated during the trial. This is not the stage to appreciate the evidence.

7. From the contents of FIR and the statements of the other witnesses it is evident that on 13th March, 2020, the applicant and his brother were together. The brother of applicant abused the complainant on the basis of caste. He was supported by the applicant and thereafter, the applicant abused the complainant. FIR also refers to earlier incidents of humiliation of informant on her caste, be applicant and others. At the stage of framing charge the Court is not required to enter into roving inquiry and what is required to be seen is prima facie case made out to proceed against the accused. This is not the stage to appreciate evidence and hence, no case for discharge is made out.

ORDER

- i. Criminal Revision Application No. 351 of 2022 stands dismissed and disposed off.
- ii. It is clarified that the observation made in this order are only for considering this application and the trial Court shall not be influenced by the same.

(PRAKASH D. NAIK, J.)