

(hereinafter referred to as 'Atrocities Act'). The FIR is lodged by the second respondent.

2. Heard Shri Bhushan Deshmukh, learned counsel for the appellants and Shri S.R. Agarkar, learned APP for the Respondent No.1-State. The office notings show that the respondent No.2 is served and, therefore, I have heard this appeal.

3. The FIR lodged by the respondent No.2 mentions that the appellants and the first informant's family are neighbours and there used to be constant trouble between them. The FIR mentions that on 11.4.2022, the appellant No.1 came to the ota of the respondent No.2's house and abused her with reference to her caste. On 2.5.2022, the main incident which is subject matter of the FIR took place at around 9.30 a.m.. That time, respondent No.2 was alone in the house. The appellant No.2 called her outside the house. He caught her hand and abused her with reference to her caste. He pulled her saree; and thus outraged her modesty. He also threatened her. It is further mentioned in the FIR that even the appellant No.1

abused her with reference to her caste and threatened her. After that the appellants went back to their house. It is mentioned in the FIR that the respondent No.2 then gave applications to the police officers and ultimately her FIR was lodged on 26.6.2022.

4. Learned counsel for the appellants submitted that family of the respondent No.2 is in the habit of filing false complaints against the appellants' family and in the past the respondent No.2's father-in-law had lodged C.R. No.298/2021 at Yeola City police station on 23.6.2021. Both the appellants were granted protection of anticipatory bail by this Court (Coram : Sandeep K. Shinde,J.) vide order dated 27.9.2021. He submitted that in the present case also the alleged incidents have taken place on 11.4.2022 and 2.5.2022 and yet, the FIR is lodged on 26.6.2022. Thus, there is delay in lodging the FIR which is not explained. It also shows that the FIR is false. He submitted that the appellants have two small children. They have cooperated with the investigation and, therefore, their arrest on these false allegations will cause irreparable harm not only to the appellants but to their children as well.

5. Learned APP, on the other hand, opposed this appeal. He produced the investigation papers before me. He submitted that the respondent No.2 had given applications to the police officers regarding this grievance on 9.5.2022 itself and, therefore, there was no delay in approaching the police. He further submitted that subject matter of the earlier FIR was entirely different and both these incidents cannot be mixed together. This particular FIR will have to be seen independently for the incidents which have taken place on 11.4.2022 and 2.5.2022.

6. I have considered these submissions. As far as the earlier FIR lodged by the respondent No.2's father-in-law is concerned, it is a different subject matter. Though the subject matter of said FIR shows that previously also there was some trouble between the parties, whether that FIR is false or not will ultimately be decided in that trial.

7. As far as the present subject matter is concerned, there are two incidents mentioned : first one was on 11.4.2022 and second was on 2.5.2022. For the first incident, the

investigation has not revealed and also the FIR does not mention that there was any other person who had seen or heard the incident and the abuses. Therefore, it is difficult to observe that offence under the provisions of the Atrocities Act can be said to be applicable for that incident. As far as the second incident is concerned, it clearly describes the role played by the appellant No.2 in outraging the modesty of the respondent No.2 as well as threatening her. Therefore, the offence is made out against the appellant No.2 as far as the incident dated 2.5.2022 is concerned. Therefore, no protection can be granted to him.

8. As far as appellant No.1 is concerned, as mentioned earlier, the incident dated 11.4.2022 may not involve the offence under the Atrocities Act as required under the Sections. It had not taken place within the public view, or at least, the FIR and the investigation papers do not show that it had taken place in the public view. As far as the second incident is concerned i.e. the incident dated 2.5.2022, the only allegations against the appellant No.1 are that she had threatened the respondent No.2 and, therefore, this act would fall within

Section 506 of IPC which is also part of Section 3(2)(va) of the Atrocities Act. However, the role ascribed to her by the respondent No.2 in this FIR and in the complaint given to the Superintendent of Police for Nashik Rural on 9.5.2022 is different. In that application given on 9.5.2022, there is no specific allegation particularly against the appellant No.1 of issuing threats after the appellant No.2 had outraged modesty of the respondent No.2. There is a general statement that both the appellants then threatened the respondent No.2. This portion is significantly different from the allegations in the FIR wherein it is mentioned that after the appellant No.2 had outraged the modesty of the respondent No.2, the appellant No.1 specifically abused the respondent No.2 with reference to her caste and had also threatened her. Therefore, at this stage, there is sufficient doubt about the exact role played by the appellant No.1 and exact nature of allegations against her. She has two small children. Therefore, I am inclined to give benefit of doubt of these circumstances to the appellant No.1. Therefore, she can be protected by an order of anticipatory bail. Hence the following order :

:: O R D E R ::

- (i) The Appeal on behalf of the appellant No.2 is rejected. If the appellant No.2 is arrested and he prefers an application for bail, that application shall be decided expeditiously in accordance with law without being influenced by this order.
- (ii) The Appeal on behalf of the appellant No.1 is allowed. In the event of her arrest in connection with C.R.No.193/2022 registered at Yeola City police station, Nashik, the appellant No.1 is directed to be released on bail on her executing a PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Criminal Appeal is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2022.11.18
17:31:04 +0530

Deshmane (PS)