

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPEAL NO. 118 OF 2022

(Mayabai Kishor Chavhan and others ..vs.. The State of Maharashtra, through PSO, Mangrulpir and another)

WITH

CRIMINAL APPEAL NO. 261 OF 2022

(Kishor Narayan Chauhan ..vs.. The State of Maharashtra, through PSO, Mangrulpir and another)

WITH

CRIMINAL APPEAL NO. 262 OF 2022

(Ajay Kishor Chauhan ..vs.. The State of Maharashtra, through PSO, Mangrulpir and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. Shah, Counsel h/f. Mr. M.N. Ali, Counsel for the appellants in Appeal 118/2022,
Mr. R.S. Kurekar, Counsel for the appellants in Appeal 261 & 262/2022,
Mr. M.K. Pathan, Addl.P.P. for respondent 1/State,
Ms. Shweta Wankhede, Counsel for respondent 2.

**CORAM : ROHIT B. DEO &
URMILA JOSHI-PHALKE, JJ.**
DATED : 21-11-2022

The appellants are arraigned as accused in Crime 1105/2021 registered with Mangrulpir Police Station, District Washim for offences punishable under Sections 294, 324, 420, 427, 436, 448 and 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Atrocities Act).

2. The investigation is complete and the final report is filed on 22-1-2022.

3. Vide orders dated 02-3-2022 and 27-4-2022 this

Court has protected the appellants.

4. We have heard the learned Counsel for the appellants Mr. S. Shah and Mr. R.S. Kurekar, learned Additional Public Prosecutor for respondent 1/State Mr. M.K. Pathan and the learned Counsel for respondent 2 Ms. Shweta Wankhede.

5. The allegations stem from dispute touching the ownership and possession of an agricultural field. According to the first informant, accused Kishor Chauhan induced her to part with substantial amount by executing agreement dated 12-2-2021 which is duly registered and thereafter not only refused to execute the sale-deed, but assaulted and heaped casteist abuses. The learned Counsel for the appellants would invite our attention to the decision of the Hon'ble Supreme Court in ***Hitesh Verma v. State of Uttarakhand and Another, (2020) 10 SCC 710*** to buttress the submission that it is not enough to attract the provisions of the Atrocities Act that a person is abused. The submission is that the abuses must be heaped because that person belongs to a particular caste. The extension of the submission is that in the factual matrix there was a civil dispute and Regular Civil Suit 126/2021 is pending. Assuming that there is an altercation which took place on the suit property, and during the course of such altercation the caste of the first informant was referred, the offence punishable under the Atrocities Act is not made out for two reasons that the

abuses are not given in public view and further and more importantly the abuses are not given because the first informant belongs to the scheduled caste.

6. We need not delve deeper since we find that the investigation is complete and it is not even the case of the prosecution that the appellants had misused the liberty.

7. We further find considerable substance in the submission that the alleged words were uttered during the course of the altercation, if at all, and not because the first informant belongs to the scheduled caste.

8. We allow the appeals and confirm the interim orders subject to the following conditions.

9. In addition to condition imposed in the interim orders, the appellants shall not, directly or indirectly, influence the witnesses or threaten the first informant and the witnesses. Any breach of this condition shall entail in cancellation of the pre-arrest bail.

10. The appeals are disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

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