

THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO. 341/2022

Duryodhan Shaligram Hendaskar & ors..Versus...State of Maharashtra & anr

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

Court's or Judge's orders

Mr. R.R.Vyas, Advocate for appellants
Mrs.Mayuri Deshmukh, APP for respondent No.1/State
Mr. J.B.Gandhi, Advocate for Respondent No.2

CORAM : AVINASH G. GHAROTE, J.

DATE : 30/06/2022

1] Heard Mr. Vyas, learned counsel for the appellants, Mrs. Deshmukh, learned APP for State and Mr.Gandhi, learned counsel for Respondent No.2.

2] The appeal is under Section 14(A) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. There are two FIRs. In the FIR No. 0322 filed by Mrs. Vishranti Vijay Pande, it is alleged that on 3.11.2021 at about 11.00 to 12.00 in the afternoon, when she was working in her agriculture field with her husband, the accused no.1/Duryodhan Shaligram Hendsakar brought out a dispute on account of the boundary of the agriculture field and the accused Nos. 2 to 5 caught hold of Vijay Pande and the accused no.1/Duryodhan is said to have assaulted him by a sickle, due to which Vijay Pande is said to have sustained a grievous injury on the head and hand. It is further alleged that

when he had gone to the Police Station to give a report, it was not taken. Mr. Vijay Pande was thereafter taken for treatment to the Government Hospital, Akola. Thereafter on 8.11.2021 at about 9.30 a.m, accused Nos. 2 to 8 are claimed to have come to the house of the complainant Smt. Vishranti Vijay Pande, when she was present in the house and had abused in her caste name and had also assaulted her. When the same was opposed, it is alleged that the accused no. 2/Vinod Duryodhan Hendaskar and accused No. 5/Mangesh Gajanan Hendsakar had outraged her modesty by tearing her Saree and intentionally touching her body. It is claimed that the accused Nos. 6 to 8, namely Kavita Vinod Hendsakar, Namtra Mangesh Hendaskar and Sunanda Gajanan Hendaskar were instigating them. It is further stated that Kuldip Sharad Ingale was present on the spot and had tried to pacify the accused persons, however, he was also abused in the caste name and threatened. It was further stated that hearing the incident the public from the village had come there, due to which the accused Nos. 2 to 8 went away. It is stated that since the condition of Vijay Dashrath Pande had deteriorated, they had thereafter gone to the Government Hospital, Akola and complaint was lodged on 9.11.2021 at 15.24 hrs.

3] There is an earlier complaint on 6.11.2021 at 20.19 hrs lodged by Vinod Duryodhan Hendaskar, in which it has been alleged that Vaibhav Vijay Pande had assaulted

Duryodhan Shaligram Hendsakar and so also Vijay Dashrath Pande had assaulted him by a sickle on head and hand on 03/11/21, as a result of which Duryodhan Saligram Hendaskar had suffered fracture on both the hands and an injury on the head which required 9 stitches, for the treatment of which he was admitted to Government Hospital at Akola. It is claimed that as the condition of his father was serious, Vinod Duryodhan did not lodge report on 3.11.2021, which came to be lodged on 6.11.2021.

4] Mr. Gandhi, learned counsel appearing for Respondent No.2/complainant submits that in FIR No. 0319 lodged by Vinod Duryodhan Hendaskar, the Respondent No.2 and the other accused, have already been granted anticipatory bail. The learned trial Court has rejected the application of the applicants by the order dated 19.5.2022. Hence the present appeal.

5] A perusal of the reply by the State before the learned Sessions Court would indicate that on 3.11.2021 when the incident is claimed to have occurred, Vijay Dashrath Pande had stated that he himself and Duryodhan Hendaskar, only two persons were present in the agriculture field and none other was present. When he was questioned as to why his wife had taken the name of other persons, he was unable to give an explanation. The reply further indicates that on 8.11.2021 as per the location by way of CDR, Kuldip Ingale

was not present on the spot of the incident, as his location was indicated to be at Akola. In the statement under Section 164 of Cr.PC. of Mrs. Vishranti Pande, nothing is said about tearing of her Saree.

6] A perusal of FIR No. 322 filed by Mrs. Vishranti Pande would indicate that the incident which is claimed to have taken place on 8.11.2021 is at her house, however, no specific statements have been made regarding any individual about the allegation of hurling caste related abuses, attributable to any specific accused. That apart, her statement under Section 164 of Cr.PC as recorded does not indicate the tearing of her Saree, as a result of an assault on her. The spot panchnama in fact is in total contradiction to what has been stated by the complainant Mrs. Vishranti Pande in her FIR, which prima facie makes it suspect.

7] The applicants have already been protected by an interim order dated 26.5.2022 and considering the aforesaid discussion, in my considered opinion, a case for confirmation of the interim order by allowing the appeal is made out. The appeal is accordingly allowed in terms of the interim order dated 26.5.2022. which is hereby confirmed.

Rvjalit

JUDGE

Digitally sign byRAJESH
VASANTRAO JALIT
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Signing Date:01.07.2022 14:32