

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO.511 OF 2021

Sanjay Bahurao Wakde
Aged 40 years, Occ. Private,
R/o Kalmeshwar, Nagpur Rural,
Dist. Nagpur.

... Appellant

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Kalmeshwar, Nagpur Rural, Nagpur.
2. Vidya W/o Chandrashekar Tagde,
Age about 35 years, Occ. Nil,
R/o Katol Road, Near Ashram School,
Ward No.3, Khapari (uma), Ghorad,
Nagpur.

... Respondents

Shri S.A. Mohta, Advocate for the appellant.
Shri S.A. Ashirgade, A.P.P. for the respondent No.1/State.
Shri N.D. Anjankar, Advocate for the respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 08 MARCH, 2022.

ORAL JUDGMENT

1. Heard Shri S.A. Mohta, learned counsel for the appellant, Shri S.A. Ashirgade, learned APP for the respondent No.1/State and Shri N.D. Anjankar, learned counsel for the respondent No.2.

2. **ADMIT.**

3. By way of the present appeal filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant has raised question to the validity and legality of the order passed below Exh.-13, dated 02.08.2021 passed by the learned Sessions Judge-11, Special Court, Nagpur, under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, in Special (Atrocities) Case No.534 of 2020, rejecting the application Exh.-13 for discharge.

4. On the allegations that the appellant had abused the complainant on her caste, offence came to be registered against the appellant vide Crime No.471 of 2020, dated 22.07.2020 registered with Police Station Kalmeshwar, Nagpur (Rural), for the offence punishable under Section 3(1)(R)(S) of the Atrocities Act.

5. In the present matter, the charge-sheet was filed on 26.09.2020 and thereupon, the appellant has moved an application for discharge vide Exhibit-13. The said application came to be rejected vide impugned order dated 02.08.2021, which has been assailed in the present appeal.

6. Shri Mohta, learned counsel for the appellant submits that the incident took place at the house of the appellant which cannot be called as public place and therefore, no offence attracts, as alleged.

7. It is submitted that the statements recorded by the Investigating Officer are not sufficient to make out the case against the appellant under the provisions of Atrocities Act. He lastly submits that the learned trial Court committed error in not considering the grounds raised by the appellant in right perspective and recorded erroneous findings while rejecting the application Exh.-13.

8. On the other hand, learned APP has drawn attention to the statements of witnesses and submits that there are witnesses to the alleged incident and therefore, it cannot be said that prima facie case is not made out against the appellant. He therefore, submits that the learned trial Court has rightly rejected the application of the appellant for discharge.

9. Shri N.D. Anjankar, learned counsel appearing for the respondent No.2-the complainant reiterates the submissions of the learned APP and prays for dismissal of the appeal.

10. To consider the rival contentions of the parties, I have perused the charge-sheet and statements of the witnesses.

11. On perusal of the statements of the witnesses, namely, the statements of Sau. Sheela Raju Mojankar, Sau Jaishree Deoraoji Adle, Devrao Maroti Adle and Raju Ramchandra Mojankar, are sufficient to prima facie show the involvement of the appellant in the alleged offence. The learned trial Court has rightly observed that, in view of prima facie incriminating material available on record against the appellant, discharge application cannot be allowed. I find no error committed by the learned lower Appellate Court in rejecting the application at Exh.13. Accordingly, I pass the following order:

The application is **dismissed**.

ANIL S. KILOR, J.]

CHETAN
LOPCHAND
DHAKATE

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