

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 21 OF 2023

CHITRA W/O. VASANTRAO SARNIKAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellant : Senior Advocate Mr. V. D. Sapkal i/by Mr. Sapkal
Sandip R.

APP for Respondent No.1 : Mr. P. M. Kutti

Advocate for Respondent No.2 :Mr. Magre Sunil G. and Mr. Shrish M. Kamble
And Suhas V. Wakle.

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CORAM : KISHORE C. SANT, J.

DATE : 9th FEBRUARY 2023.

Per Court :

Heard the parties.

1. This is an appeal by the original accused in a crime registered with Badnapur Police Station bearing FIR No.604/2022, wherein the allegation is made of having committed an offence punishable under Section 3(1)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

2. The appellant is seeking bail in the event of her arrest. She had filed Criminal Miscellaneous Application No.1423/2022 for bail before the learned Sessions Judge, Jalna. However the same came to be rejected by order dated 12.12.2022. Therefore she is before this Court.

3. The allegation in the FIR is that the appellant happens to be a Teacher in a Primary School at Selgaon. On 26.11.2022, a function was arranged, wherein she was giving a speech on 'Bharat Ratn Dr. Babasaheb Ambedkar', while giving example of how dedicated he was in the studies, she stated that Dr. Babasaheb Ambedkar while studying in a library was so engrossed in the studies that when he became hungry by mistaking cow dung as bread ate it. Her speech was captured in the video clip and circulated and made viral. The informant also came across the said clip as it was sent to him by one of his friends. Therefore the informant lodged the FIR against the present appellant.

4. The appellant therefore approached the Sessions Court by filing bail application, which was rejected. While rejecting the application, the learned Sessions Judge has considered the judgments in the case of Vilas Pandurang Pawar Vs. State of Maharashtra (2012(8) SCC, 795),

Javed Raza Shroff Vs. The State of Maharashtra in Cri. Appeal No.1119/2022; Mr. Sharad Shankarrao Chavan Vs. State of Maharashtra in Cri. Application No.418/2022 and Prathiv Raj Chauhan Vs. Union of India and Ors. Reported in (2002) 4 SCC 727.

5. The learned Senior Advocate for the appellant submits that the sentence is being taken out of context. Looking to the context of the speech, it is clearly seen that though she may have given an example wrongly, but it was with an intention to impress upon the students to show as to how he used to get engrossed in the studies. The entire speech or even the statement does not show that she had done this with any intention to show disrespect to Dr. Ambedkar. Even the persons, who were present have not taken it as disrespect. He pointed out from the statements thereafter recorded in enquiry conducted by the BDO that when she was giving such speech, she was immediately corrected by the Head Master of the School, where she immediately tendered her apology. He further submits that it is not only that Dr. Babasaheb Ambedkar is only by the person belonging to the particular caste, but is held in high esteem by all the person and therefore it cannot be said

that the offence is committed. He further submits that taking the speech as it is, ingredients of Section 3(1)(v) are not made out.

6. The learned Advocate for respondent no.2 vehemently opposed the appeal submitting that in any case the accused is not supposed to use such words. This is clearly amounting to telling the students a wrong history. He submits that in spite of pointing it out to her the mistake as appears from the statement of the Head Master, she did not correct herself and asserted her statement. He submits that it is needless to say that it is within common knowledge as to from which caste Dr. Babasaheb Ambedkar belongs to. The accused happens to be a Senior Teacher and still she has committed such a mistake clearly shows that it is deliberate mistake on her part. He further submits that the learned Sessions Judge has rightly passed an order and rejected the application of the appellant.

7. The learned APP submits that the appellant has attended the police station as per the condition imposed by this Court. He further submits that from plain reading the offence appears to have been committed.

8. The appellant alongwith his appeal has annexed some documents showing that the informant in this case respondent no.2 is in fact having criminal background and various cases are pending against him and he also indulged into the practices of online fraud. The learned Senior Advocate relied upon the judgment reported in 2021 AIR(SC)4065 in the case of R.S. Bharathi Vs. The State Represented by Assistant Commissioner of Police and Another. This case also was under Section 3(1)(u) or (3(1)(v) of the Atrocities Act. He points out paragraph no.11 of the said judgment, in which the Hon'ble Apex Court has held that it is necessary to see that whether there was an intention to show disrespect about the person held in high esteem by members of the society. It was a case where in the function, the appellant addressed audience of more than 100 members of the party and spoke about discrimination in respect of Scheduled Castes (SC) and Scheduled Tribes (ST) community in the matter of appointment of Judges. He further spoke about the appointment of one Judge of the High Court after Kalaighar (Late M. Karunanidhi) came to power and later on 7-8 persons belonging to Adi Dravida community became Judges thereafter. The appellant said that all these appointments of the

persons belonging to SC and ST community are because of the alms of the Dravidian movement. The Hon'ble Apex Court has held that the tenor of the speech is that the members of Adi Dravida community have benefited because of Kalaigarnar and the Judge was appointed as a High Court Judge. It is held that this cannot be said to be coming under the purview of Section 3(1)(v) of the Atrocities Act.

9. Considering the submissions and considering the facts of the case, it is clearly seen that in no way, the alleged speech of the appellant can be said to be disrespecting Dr. Babasaheb Ambedkar, while giving some example, some words, she may have used, which if taken out of context may give some impression that it amounts to show disrespect to the great personality. But looking from the point of view of the common man, in fact it does not appear to be disrespect. This Court finds that no case is made out attracting the provision of Section 3(1)(v) of the Atrocities Act and therefore the bar under Section 18 would not be applicable in this case. Hence the following order.

ORDER

- (i). In the event of arrest of the appellant in connection with Crime No. 604/2022 registered with Badnapur Police Station, Dist. Jalna, she shall be released on bail on executing P. R. bond with solvent surety in the sum of Rs. 15,000/- (Rs. Fifteen Thousand only).
 - (ii) The appellant shall attend the concerned Police Station as and when called by the Investigating Officer and shall not tamper with the evidence and shall not try to contact any of the witnesses.
10. With this, the Criminal Appeal is disposed off.

[KISHORE C. SANT, J.]

Najeeb.