

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.168 OF 2023

VIJAY PARASRAM RATHOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellants : Mr. B. S. Kudale
APP for Respondent No. 1: Mr. S. N. Morampalle
Advocate for Respondent No. 2 :Mr. R. M. Gaikwad

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CORAM : R.M. JOSHI, J

DATE : AUGUST 03, 2023

PER COURT :

1. Appellants apprehend arrest in connection with with C.R. No. 240 of 2022 registered with Basamba Police Station, Dist. Hingoli for the offences punishable under Sections 324, 294, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short '**the Act**').

2. Informant recorded incident occurred on 08.07.2022 at around 12 – 12.30 pm in their agricultural field being Gut No. 40. The incident occurred on trivial issue of grazing of the bulls. It

is alleged that present Appellants came to the spot and questioned the informant and her son as to why bulls were let free by them with further allegations that this could cause injury to bulls belonging to Appellants. It is further alleged that the Appellants assaulted informant with fist blows and sticks. There is further allegation that they abused her over the caste. She further stated that Appellants threatened her husband not to lodge report to the police.

3. Learned Counsel for the Appellants states that there are disputes between parties and considering the same, delay in lodging of the FIR, becomes relevant. It is further submitted that there are no specific allegations against Appellants as to which Appellant made abuse over the caste of the informant.

4. Learned Counsel for the informant opposed the Appeal by contending that statements in the FIR are sufficient to indicate the commission of offence under the Act. He further submitted that considering the threats given by the Appellants to the husband of the informant, no immediate report was lodged. Hence, delay caused in lodging of the FIR, would not become ground

to grant bail.

5. Learned APP also opposed the application. He placed reliance on the statements recorded during the course of investigation. It is also contended that there is injury certificate indicating injuries caused to the son of the informant.

6. There is no denial of the fact that there are disputes between parties. Perusal of the FIR indicates that incident in question has occurred on 08.07.2022 whereas the report is lodged on 24.08.2022. Thus, there is inordinate delay in lodging of the FIR. The contention of the Counsel for the informant that there was threat given by the Appellants to the husband of the informant when he was going to lodge report about the incident is not supported by any other material on record. Perusal of the investigation papers indicate that the statements of the witnesses, who claims to have been present at the spot of the incident, did not support the case of the informant about hurling of abuses over the caste. As far as witness Lakhan is concerned, though he vaguely states that the Appellants abused informant over caste, however, he does not state

specific abuses uttered by them. Even the said statements recorded under Section 164 Cr.P.C of the witness does not show commission of offence punishable under the Act. This Court, therefore, has reason to accept arguments advanced by learned Counsel for the Appellants that for want of offences being made out under the Act, bar of Section 18 of the Act does not apply to the present case. Barring offence under the Act, remaining offences are bailable. Hence, there is no reason to deny bail to the Appellant.

7. In the result, Appeal stands allowed by confirming order dated 01st March, 2023.

(R.M. JOSHI, J.)

Malani