

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 347 OF 2023

Ashok Kashinath Jagtap

Appellant

Versus

The State of Maharashtra & another

Respondents

Mr. S. S. Jadhav, Advocate for the appellant.

Mr. S. P. Sonpawale, APP for the State.

Mr. R. M. Gaikwad, Advocate (appointed) for respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 17th JULY, 2023.

PER COURT :

1. Appellant apprehends arrest in connection with Crime No. 0051/2023 registered at Bhada Police Station, Dist. Latur for the offences punishable under Sections 143, 147, 294, 354, 323, 504 and 506 read with Section 149 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.

2. As per the report given by the informant, on 4th March, 2023, at about 9.00 am, present appellant along with co-accused came to the spot and abused her over caste. In the said incident,

informant as well as other women were brutally assaulted with fists and kicks blows by the appellant.

3. Learned counsel for the appellant states that the incident in question had occurred at 9.00 am on 4th March, 2023 whereas the report of the same is lodged at 9.00 pm. Thus, according to him, there is delay in lodging First Information Report. It is further contended that infact some incident had occurred in the previous night and that there was compromise between the parties and in connection with the same, appellant went to the spot. It is contended that practically it is impossible that if the incident in question had occurred at public place, only women who happened to be the members of the Sanstha belonging to the present informant are the witnesses to the same. It is further argued that if it is case of the informant that women were brutally assaulted by fists and kicks blows, there has to be some evidence to corroborate the said allegation. He also drew attention of the Court to the letter issued by the Gram Panchayat indicating that there is settlement of dispute between the parties and it was decided not to lodge complaint against each other.

4. Learned APP and learned counsel for the informant opposed the appeal by submitting that there are specific allegations against the present appellant of abusing the informant over her caste. It is also stated that First Information Report duly gets support from the statements of the women who witnessed the said incident. It is submitted that the appellant was not able to show that the said witnesses are the members of the Sanstha belonging to the informant and hence, they cannot be called as interested witnesses.

5. Learned APP, on instructions from the Investigating Officer, has confirmed the fact that the letter dated 18th April, 2023 was issued by the Sarpanch of Aashiva Gram Panchayat, Tq. Ausa. Learned counsel for informant submits that appellant is an influential person and therefore, he could obtain such letter from the Gram Panchayat.

6. Prima facie perusal of the First Information Report shows that the incident in question has occurred at 9.00 am whereas the report thereof is lodged at 9.00 pm. The letter issued by the Gram Panchayat clearly indicates that some dispute had occurred between the two groups on 2nd March, 2023. The said letter further records

that there was settlement arrived at between both the sides. In the light of this, there is substance in the contention of appellant that he went to the spot in order to receive the amount regarding damage caused to the vehicle. In this backdrop, if the allegations in the First Information Report are considered, the same show that there was brutal assault caused by appellant and 11 others on the informant and the women who were alleged witnesses to the incident. Perusal of the investigation papers does not show that any injury of whatsoever nature was caused to any of the women who was present at the spot. Having regard to the previous dispute and delay in lodging report, there is reason to believe that this can be a case of false or over implication. In such circumstances, direction to the appellant to attend concerned police station would be sufficient for further investigation, if any. Hence, following order :-

ORDER

- (i) Appeal is allowed.
- (ii) In the event of arrest of appellant in connection with Crime No. 0051/2023, registered with Bhada Police Station, Dist. Latur, for the offences punishable under Sections 143, 147, 294, 354, 323, 504, 506 read with Section 149 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, he be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount.

(iii) He shall attend the concerned police station once in a week.

(iv) He shall not contact the witnesses directly or indirectly.

(v) He shall not interfere with the evidence in any manner whatsoever.

(vi) He is further directed to cooperate the investigating agency for further investigation.

(vii) Fees of the appointed counsel is quantified at Rs. 6,000/-.

(R. M. JOSHI)
Judge