

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

918 CRIMINAL APPEAL NO.368 OF 2023

1. Sahil Akbar Sayyad

2. Waseem Akbar Sayyad

... Appellants

Versus

The State of Maharashtra and Another

.. Respondents

...

Advocate for Appellants : Mr. Yunus Basheer Pathan

APP for Respondent – State : Mr. G.O. Wattamwar

Advocate for Respondent No.2 : Mr. Ganesh P. Darandale

...

CORAM : R. M. JOSHI, J.

DATE : JULY 26, 2023

PER COURT :

. Heard.

2. Appellants are apprehending arrest in connection with Crime No.82 of 2023 registered at Sonai Police Station, Dist. Ahmednagar for the offences under Sections 354, 324, 323, 504, 506, 427 r/w. 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(w), 3(1)(w)(i), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

3. It is contention of informant that there are disputes

between appellants and their family. It is also mentioned in the report that civil suit is filed in respect of premises and the same was decided in favour of informant. With regard to incident dated 21.02.2023, it is alleged that appellants and others abused and assaulted informant with fists and kick blows and was also assaulted with knife on her abdomen. There is also allegation that appellants and co-accused outraged her modesty.

4. Learned counsel for appellants states that there are disputes between the parties and on going through the documents placed on record relating to civil dispute between the parties, false implication of appellants cannot be ruled out.

5. Learned APP and learned counsel for informant opposed the application by contending that statement of informant in FIR gets support from the statement recorded under Section 164 of CrPC as well as injury certificate filed on record. According to learned APP, injury of abrasion can be caused with knife and as such there is material to indicate the involvement of present appellants in this crime.

6. Learned counsel for informant submits that there are

specific allegations against appellants about showing their involvement in the crime. According to him, merely because there are disputes between the parties first information report cannot be discarded at this stage.

7. Perusal of the material placed on record indicates that there are disputes between informant and appellants over the property. The Court needs to be more careful while ascertaining the role of appellants in any crime when it is preceded by some disputes between the parties. Perusal of the FIR as well as statement of the informant under Section 164 of CrPC indicate that there are material discrepancies in the said statement with regard to who has caused actual assault with knife on her as well as outraged her modesty. In the FIR omnibus allegations are made that three accused persons assaulted her and as well as outraged her modesty, whereas the said role has been attributed in Section 164 of the Cr.PC. statement of one accused. As far as injury is concerned, if it is case of the informant that she was assaulted with knife, it is difficult to digest that an abrasion would cause to informant with no other injury. All these aspects assume importance since there are disputes between parties. It is well known phenomena that existence of disputes not only cause

for commission of crime, but it also gives reason for false implication too. There are no criminal antecedents against appellants.

8. So far as submission of learned APP about the alleged recovery of weapon is concerned, it can be taken care by directing appellants to remain present before the Investigating Agency and for the purpose of recovery, if any, they shall be deemed to be in custody of police. Since *prima facie* no offence is made out under the provisions of SC & ST Act, Section 18 has no application to the present appeal. In view of above, following order is passed.

ORDER

(i) Appeal stands allowed except direction in the order dated 26.04.2023 about attending the concerned police station, which is modified as under:

(a) Appellants shall attend concerned police station once in a fortnight till filing of charge-sheet and for the purpose of recovery, if any, they shall be deemed to be in custody of police.

[R. M. JOSHI]
JUDGE