

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

958 CRIMINAL APPEAL NO.395 OF 2023

SATISH RAVAN SHINDE
VERSUS
THE SUPERINTENDENT OF POLICE LATUR

...
Advocate for Appellant : Mr. P P More
APP for Respondents: Mr. V. S. Badakh
Advocate for informant : Mr. Angad L. Kanade

...
CORAM : R. M. JOSHI, J.
DATE : 19th AUGUST, 2023

PER COURT :

1. Apprehending arrest in connection with Crime No. 135 of 2023 registered with Chakur Police Station, Dist. Latur, for the offences punishable under Sections 323, 324, 504, 506 R/W Section 34 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, the appellant has approached this Court seeking anticipatory bail.

2. Informant – Raju Bhagwan Suryawanshi lodged report to the police in respect of the incident occurred on 12.03.2023 at about 09:30 a.m. at Bus Stop. It is alleged that the present appellant along with his family members were present at the spot and that he called

the informant and asked him to repay the money which was lent by him. It is further stated that the informant at that time told him about entire money being repaid. It is alleged that the informant was abused over his caste by stating that “ए मांगट्या तुझ्याकडे पैसे राहीले आहेत” and thereafter appellant assaulted him with Bamboo stick on his head. It is further alleged that, at that time his sons came on the spot and tried to intervene but they were also assaulted. In the report, he also referred to the incident occurred on 11.04.2023 in which the appellant herein had abused the informant over refusal for repayment of money.

3. Learned counsel for the appellant submits that there is dispute between the parties, particularly over the repayment of money lent by the appellant to the informant. It is his submission that the FIR has been lodged belatedly i.e. after 12 hours of the occurrence of the incident. According to him, it is not possible to make one utterance in coram by all accused and this creates doubt about allegation of abuses over caste. It is further submitted that roping of entire family of the appellant indicates that the informant in order to avoid repayment of money has tried to involve family

members of the appellant in the crime in question. Without prejudice to his submissions that no abuses were hurled by the appellant against the informant over his caste, reliance is placed on the judgment of this Court in the case of *Kiran s/o Madhukar Ingle vs. The State of Maharashtra and another* delivered in Criminal Appeal No. 787 of 2018 on 26.02.2019. By referring to paragraph nos. 17 and 18 of the said judgment, it is submitted that mere reference to the caste of the informant does not amount to an offence. He also argued that alleged injury caused to the father of the informant also indicates that it is a case of false implication as there is no reference about the presence of the father of the informant in the FIR.

4. Learned APP and the counsel for the informant opposed the application. It is the contention of the learned counsel for the informant that, perusal of the FIR and the statement of eye-witnesses clearly indicate that incident in question has occurred at the bus stop, which is a place in public view. Learned APP has pointed out from the statement of witnesses that the other persons were also present at the spot at the time of occurrence of the incident. As far as the non mention of the presence of the father of the informant in the FIR, it is

submitted that in the supplementary statement it is clearly mentioned that his father also tried to intervene in the said assault and sustained injury therein. In order to further substantiate said submission, it is sought to be argued that the informant had sustained about seven injuries on his person so also the sons and father of the informant sustained injuries. Thus, according to them, this is a case wherein bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, would be applicable.

5. Initially this Court also carried impression that the allegation made in the FIR about hurling abuse over caste is attributable to more than one person, however, learned counsel for the informant has rightly pointed out that the reference of present appellant in the FIR is made in the same manner. This leaves no room of doubt at least at this stage that informant was abused only by the appellant over his caste. So far as the judgment relied upon by the learned counsel for the appellant is concerned, in the said judgment it is held that the references to the caste of the informant “महारगे or मांगटे” if are excluded from the entire statement, then this does not amount to threat or intimidation and at the most it can be an offence

punishable under Section 504 of IPC. The said observations are made in the context of the facts involved in the said case. In the instant case there is no simple reference to caste of informant but apparently it is intended to insult him over his caste. The judgment cited by Appellant would not help the appellant to support his submission.

6. *Prima facie* perusal of the record indicates that the two incidents had occurred i.e. on 11.03.2023 and 12.03.2023. Had it been a case that the informant wanted to implicate the appellant as well as his entire family in the offence, it would not have been impossible for the informant to allege against everyone that they hurled abuses over his caste. Similarly, there is no any allegation of abuse over his caste on 11.03.2023. This indicates absence of mala fide intention of false implication. Hence there is no reason to discard the statement of informant about he being abused over his caste by the appellant herein.

7. As far as non mention of presence of father of informant, it is rightly pointed out by the learned counsel for the informant that the FIR need not be an encyclopedia and immediately on the next

date of the occurrence of the incident, supplementary statement is recorded to show that not only the informant and his sons but also his father sustained injury in the said incident. Perusal of the statement of the sons of the informant clearly shows that at the time of occurrence of incident, apart from the family members of the informant, other persons were also present. This clearly shows that the incident in question has occurred at the public place, which is a public view. In such circumstances, the appellant cannot be given benefit of the judgment delivered by the Hon'ble Apex Court in the case of *Hitesh Verma vs. State of Uttarakhand and another* in Criminal Appeal No. 707 of 2020 on 05.11.2020. Therefore, having regard to this fact, bar under Section 18 of the Atrocities Act clearly applies to the present case. Hence, Court has no jurisdiction to entertain the application under Section 438 of the Code of Criminal Procedure.

8. In view of above facts and circumstances, no case is made out by appellant to cause interference in the order of rejection of pre-arrest bail passed by learned Additional Sessions Judge, Latur. Resultantly, **appeal stands dismissed.**

9. Learned counsel for the appellant submits that he was protected by this Court vide order dated 20.06.2023 and, therefore, he seeks extension thereof for a period of two weeks from today.

10. Learned APP and the counsel for the informant opposed the request for extension of interim relief.

11. Since the liberty of the appellant was protected, in the interest of justice, the interim relief is extended for a period two weeks.

[R. M. JOSHI]
JUDGE

SG Punde