

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 451 OF 2023

Rama s/o Shivram Jagtap

Appellant

Versus

The State of Maharashtra & another

Respondents

Mr. P. D. Jarare, Advocate for the appellant.

Mr. G. O. Wattamwar, APP for the State.

Mr. S. S. Nade, Advocate for respondent No. 2.

CORAM : R. M. JOSHI, J.

RESERVED ON : 27th JUNE, 2023.

PRONOUNCED ON : 4th JULY, 2023.

ORDER :

1. Appellant apprehends arrest in connection with Crime No. 106/2023 registered with Majalgaon Rural Police Station, Tq. Majalgaon, Dist. Beed, for the offences punishable under Sections 323, 325, 504 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.

2. Informant reported to the police incident dated 18th April, 2023 stating that in the night he had been to Ravi Dhaba for dinner and after completing dinner when he came out and went near the motorcycle parked by him in front of the hotel, appellant and co-accused came there and objected for parking his motorcycle behind their motorcycle. It is alleged that at that time present appellant pulled him from the motorcycle and abused him over his caste. He was also assaulted with wooden log due to which he sustained injuries.

3. Learned counsel for the appellant states that there is delay in lodging First Information Report and hence the possibility of false implication cannot be ruled out. It is further submitted that the offence punishable under Section 326 of the Indian Penal code does not get attracted for want of any grievous injury caused to the informant. It is alleged that on account of dispute with the co-accused about non-providing of labour for sugar cutting inspite of accepting Rs.5,00,000/- by the informant, present false report is lodged. It is contended that there was no intention of the appellant to abuse or insult the informant over his caste and mere reference of the caste cannot be construed as an offence. To support his

contention, he placed reliance on judgment in the case of Kiran s/o Madhukar Ingle vs. The State of Maharashtra and another in Criminal Appeal No. 787/2018.

4. Learned APP and learned counsel for the informant opposed the said submission by stating that there are witnesses to the occurrence of the incident and the incident in question has occurred in public view. It is submitted that the contention of the informant about causing of injury on account of assault by the appellant by wooden log is supported by injury certificate. It is submitted that the words uttered towards informant are not just referring to his caste but they apparently intend insult of the informant over his caste.

5. Prima facie perusal of the First Information Report indicates that though appellant and co-accused were present at the spot, the allegation is only made against the present appellant of abusing over caste of the informant as well as assaulting him with wooden log. If there was dispute with the co-accused, it does not stand to any reason as to why informant did not make any serious allegation against him. Thus, this Court at least at this stage does

not find any substance in the contention raised on behalf of the appellant. Perusal of the investigation papers indicates that the informant sustained dislocation of shoulder which is termed as grievous injury by the Medical Officer. Thus, there is support to his contention about he being assaulted with wooden log. Thus, there is prima facie material on record to show that the informant was assaulted by the appellant with wooden log. The said weapon is yet to be recovered. Thus, prima facie, the offence punishable under Section 326 of the Indian Penal Code gets attracted in view of causing of grievous injury by the informant. The offence is serious in nature. Since the wooden log is yet to be recovered, custodial interrogation of the appellant is necessary. In view of this, this Court does not wish to record any finding with regard to the contention of appellant that there was or not any intentional insult of the informant over his caste. Hence, appeal stands dismissed.

6. Pending application, if any, does not survive and stands disposed of.

(R. M. JOSHI)
Judge