

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 453 OF 2023

1. Anil Gopinath Hon
2. Ganesh Santram Rokade Appellants
Versus

The State of Maharashtra & another Respondents

Mr. R. P. Patwardhan, Advocate for the appellants.
Mr. V. S. Badakh, APP for the State.
Mr. R. P. Cheble, Advocate (appointed) for respondent No. 2.

CORAM : R. M. JOSHI, J.
DATE : 21st JULY, 2023.

PER COURT :

1. Appellant apprehends arrest in connection with Crime No. 0182/2023 registered with Gangapur Police Station, Dist. Aurangabad for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 of 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. It is the contention of informant that an incident has occurred on 30th April, 2023 wherein appellant and others abused and assaulted Sagar on the ground that he has converted himself to

Buddhism. There is further allegation in respect of incident dated 1st May, 2023 wherein accused Anil and three unknown persons assaulted the informant with iron rod and abused him.

3. Learned counsel for appellant states that the appellant was not present during the incident dated 1st May, 2023 and hence, hence the offences alleged are not attributed to him.

4. Learned APP and learned counsel for the informant opposed the said contention by stating that there is specific allegation against the present appellant of abusing Sagar and assaulting him for the reason that he converted himself. Learned counsel for the informant has also drew attention of this Court to the complaint lodged by Sagar before Waluj Police Station. According to him, the concerned police station has not correctly recorded the report of Sagar.

5. There is no dispute about the fact that on 1st May, 2023, the appellant was not present at the spot. It is not the contention of the informant that appellant is unknown to him. Acquaintance of the informant with the appellant is clear from the incident of 30th

April, 2023 recorded by him. In such circumstances, when the informant does not specifically mentions presence of the appellant at the spot in the incident occurred on 1st May, 2023, the appellant cannot be connected with the said crime. As far as crime against Sagar is concerned, perusal of the report lodged by him indicates that it was a case of assault without any specific reason. In such circumstances, the offence punishable under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not applicable to the present case. For want of presence of appellant at the spot on 1st May, 2023, his liberty deserves to be protected. Hence, application is allowed in terms of the interim order. Fees of the appointed counsel is quantified at Rs. 6,000/-.

(R. M. JOSHI)
Judge

dyb