

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

920 CRIMINAL APPEAL NO.470 OF 2023

1. ANNAPURNA VITTHAL PAVDE

2. LAXMI SHIVRAM MODAK

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellants : Mr. Shashikant E Shekade

APP for Respondent – State : Ms. R.P. Gour

Advocate for Respondent No.2 : Mr. M.M. Parghane

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CORAM : R. M. JOSHI, J.

DATE : JULY 26, 2023

PER COURT :

1. Appellants apprehend arrest in connection with Crime No.266 of 2023 registered with Kalamnuri Police Station, Dist. Hingoli for the offences punishable under Sections 504, 506 read with Section 34 of the Indian Penal Code (for short, 'I.P.C.') and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the 'Atrocities Act').

2. It is the contention of the informant that on 28.04.2023 an incident occurred at around 05:00 p.m. wherein the present

appellants abused, physically assaulted and insulted her over her caste. It is contended that Shesherao Patode, Jayashri More and Sonal Ghongade intervened in the said quarrel.

3. Learned counsel for the appellants states that the alleged incident has occurred on 28.04.2023 whereas the report is lodged on 03.05.2023. According to him, considering the dispute between the parties false implication of the appellants cannot be ruled out. It is also stated that the incident in question has not occurred in the presence of any independent witness and the persons who are named in the FIR are close relatives of the informant.

4. Learned counsel for the informant opposed the said submissions by contending that the informant is aged about 65 years and therefore she was required assistance to go to the police station. He further states that she was required to take medical treatment and therefore the delay has been caused in lodging the FIR and delay cannot be sole ground for discarding the First Information Report. It is also contended that there is a bar for grant of anticipatory bail in view of Section 18 of the Atrocities Act.

5. Learned APP also opposed the appeal.

6. From the FIR itself it is clear that there are disputes between the parties. Though it is claimed that the informant is aged about 65 years, however there is no denial of the fact that there are other family members in the house. From the statements of witnesses it is clear that the son of the informant is a police personnel. In such circumstances, it is impossible to accept that the informant could not go to the police station immediately.

7. It is further apparent from the investigation papers that the statements of interested witnesses i.e. daughter and daughter-in-law are recorded by the police. This supports the contention of learned counsel for the appellants that it is the case of false implication. There is substance in his contention that the alleged insult of the informant over the caste has not been done in presence of any independent witness.

8. Having regard to the aforesaid facts and as this Court is

of *prima facie* view that this is a probable case of false implication, the bar of Section 18 does not attract to the present case. So also there are no criminal antecedents against the appellants. Hence the following order:

ORDER

- (i) Appeal stands allowed in terms of interim relief dated 21.06.2023.

[R. M. JOSHI]
JUDGE

GGP