

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.484 OF 2023

Vasant Uddhav Satpute

Aged : 47 years, Occu : Agriculture,

R/o. Ghatpimpri, Tq. Washi,

Dist. Osmanabad

.. Appellant

Versus

1. The State of Maharashtra

2. Shrikrushna Ravindra Dhaware

Aged : 29 years, Occu : Agriculture,

R/o. Ghatpimpri, Tq. Washi,

Dist. Osmanabad

.. Respondents

...

Mr. Ganesh P. Shinde, Advocate for Appellant

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

Mr. D.S. Patil, Advocate for Respondent No.2

...

CORAM : R. M. JOSHI, J.

Reserved on : 03-08-2023

Pronounced on : 10-08-2023

PER COURT :

. This appeal is filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'Atrocities Act').

2. The appellant is apprehending arrest in connection with

Crime No.125 of 2023 registered at Washi Police Station, Dist. Osmanabad for the offences under Section 324, 341, 343, 504, 506 r/w. 34 of Indian Penal Code and Section 3(1)(r), 3(1)(s) of the Atrocities Act.

3. It is the contention of the informant that on 25.04.2023 while he was taking goats by Nandur road, appellant obstructed him and abused him over his caste. It is also alleged that the appellant had threatened him to remove the stable which was situated near to the stable of the appellant. There is further allegation that he was assaulted with stick.

4. Learned counsel for the appellant states that no offence is made out under the Atrocities Act as the incident in question has not taken place in public view. To support his submissions, he placed reliance on **Hitesh Verma Vs. State of Uttarakhand & another, 2020 (10) SCC 710**. Thus, according to him, the bar of Section 18 of the Atrocities Act is not applicable to the present case.

5. Learned counsel for the informant and the learned APP opposed the said contention by referring to the FIR and the investigation papers. It is the contention of learned counsel for

respondent no.2 i.e. informant that the offence under Section 3 (g) of the Atrocities Act gets attracted to the present case. It is his contention that any interference caused by the appellant in respect of property in possession of the informant amounts to offence.

6. In response to the said submission, it is argued by the learned counsel for the appellant that from the village map it can be seen that agricultural lands of the informant and the appellant are not abutting to each other. Thus, it is his contention that the question of the interference in the land or property of the informant does not arise.

7. As far as the allegation about abusing and insulting the informant over his caste is concerned, there is no dispute about the fact that the said incident has not been witnessed by any person. The Hon'ble Apex Court in the case of **Hitesh Verma** (cited supra) has held that for the purpose of attracting the provisions of Section 3 (r)(s) the incident should take place within public view. In the absence of any other person at the spot, *prima facie* it cannot be held that the offence under the said section is committed by the present appellant.

8. As regards the contention of the learned counsel for the informant about the interference in the peaceful possession of the land or property of the member of the Scheduled Castes or Scheduled Tribes amounts to offence under Section 3 (g) of the Act is concerned, *prima facie* from the material placed on record it can be seen that the lands of appellant and informant are not situated abutting to each other. It is sought to be argued by the learned counsel for the informant that the stable of the informant is on the *gairan* land and belongs to government. Perusal of Section 3 (g) of the Atrocities Act clearly shows that the interference in the land or property should be the land of the member of the Scheduled Castes or Scheduled Tribes. At this stage, it may not be possible to accept the contention that this provision could apply to the place wherein informant has no right. Since this is a matter of evidence can be decided at the time of the trial, at this stage it would be suffice to say that arguable case is made out by the appellant in this regard, about applicability of offence under Atrocities Act.

9. In view of above, there is reason to accept the submission

of the learned counsel for appellant that this is not the case wherein the bar of Section 18 can get attracted. Rest of the offences are bailable in nature. There are no criminal antecedents against the appellant and he is not likely to flee from justice. In such circumstances, liberty of appellant deserves to be protected. Hence, following order is passed.

ORDER

(i) Appeal stands allowed in terms of interim relief dated 22.06.2023.

[R. M. JOSHI]
JUDGE

GGP