

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

37 CRIMINAL APPEAL NO.582 OF 2023

1. Pravin Vilas Gite
2. Vilas Govind Gite
3. Sangita Vilas Gite
4. Kailas Govind Gite
5. Mangesh Vilas Gite .. Appellants

Versus

1. The State of Maharashtra
2. Rajendra Yadav Gholap .. Respondents

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Advocate for Appellants : Mr. Sudhir P. Telgote h/f. Mr. T.J. Momin
APP for Respondent – State : Mr. G.O. Wattamwar
Advocate for Respondent No.2 : Ms. Sunita G. Sonawane

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CORAM : R. M. JOSHI, J.
DATE : AUGUST 28, 2023

PER COURT :

1. When this Court has shown disinclination to grant relief in favour of appellant no.1 - Pravin, learned counsel for the appellants on instructions seeks withdrawal of the appeal against him.

2. Appeal stands dismissed as withdrawn qua appellant no.1.

3. Appellants no.2 to 5 are apprehending arrest in connection with Crime No.423 of 2022 registered at Akole Police

Station, Dist. Ahmednagar for the offences under Section 143, 147, 323, 504, 506 of the Indian Penal Code and Section 3 (1)(r)(s), 3(2) (va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act as Criminal Application No.127 of 2023 filed by appellants was dismissed by learned Sessions Judge, Sangamner by order dated 26.06.2023.

4. First Information Report No.423 of 2022 is registered against the appellants on 08.09.2022 in respect of the incident occurred on 07.09.2022. The allegations made in the FIR show that the incident in question has occurred in the front of the saloon at village Kotul at around 07:30 p.m. The allegations made therein show that co-accused had abused and assaulted the informant. There is further allegation that the present appellants also abused informant and others over their caste and insulted them.

5. Learned counsel for the appellants submits that the charge-sheet has been filed and perusal of the said charge-sheet shows that the allegations made against these appellants are not supported by the statements of the witnesses. In order to substantiate

said submission, he placed reliance on the statement of Ganesh, Ravindra and Dilip.

6. The application is opposed by learned APP and learned counsel for the informant.

7. Though perusal of the FIR shows that the present appellants abused and insulted the informant over his caste, however it is not acceptable that all of them in a chorus at one time abused him. Further, the said allegation does not get supported from the statements of aforesaid witnesses. In their statements, there is nothing to indicate that these appellants abused informant over his caste. As such, bar created by Section 18 of the Atrocities Act has no application in the present case. As far as the other offences are concerned, they are bailable in nature.

8. In view of above, appeal deserves to be allowed. Hence, the following order:

ORDER

- (i) Appeal stands allowed qua appellants no.2 to 5.
- (ii) In the event of arrest of appellants no.2 to 5 in connection with Crime No.423 of 2022 registered at

Akole Police Station, Dist. Ahmednagar for the offences under Section 143, 147, 323, 504, 506 of the Indian Penal Code and Section 3 (1)(r)(s), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, they shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) each, with one solvent surety in the like amount each.

- (iii) They shall attend the concerned police station as and when called.
- (iv) They shall not contact the witnesses directly or indirectly.
- (v) They shall not interfere with the evidence in any manner whatsoever.
- (vi) They are further directed to cooperate the investigating agency for further investigation.

[R. M. JOSHI]
JUDGE

GGP