

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.618 OF 2023

RENUKA W/O APPASAHEB BHANGE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Appellant : Mr. N. B. Narwade
APP for Respondent No. 1: Mr. G. O. Wattamwr
Advocate for Respondent No. 2 : Mr. M. P. Kale h/f
Mr. A. R. Muley

...

CORAM : R.M. JOSHI, J
DATE : OCTOBER 30, 2023

PER COURT :

1. This appeal is filed under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act') challenging order dated 30.06.2023 passed by learned Special Judge, Newasa rejecting application for anticipatory bail in connection with Crime No. 627 of 2022 registered with Newasa Police Station, Dist. Ahmednagar for the offences punishable under Sections 504 and 506 of Indian Penal Code and Sections 3(1)(r)& 3(1)(s) of the Atrocities Act.

2. On 08.06.2023 first informant reported incident occurred on 04.05.2023. It is her contention

that Appellant is her neighbour and their used to occur frequent quarrels between them over the issue of throwing garbage in front of house of informant. It is alleged that on the fateful day, Appellant abused informant over her caste.

3. Learned Counsel for the Appellant states that there is inordinate delay in lodging of the report in respect of alleged incident which creates possibility of false implication. He further submits that incident in question is not witnessed by any independent persons in order to constitute offence under the Atrocities Act.

4. Learned Counsel for the informant and learned APP opposed the Appeal with submissions that the incident has occurred in presence of husband and son of the informant and their statement clearly states that the informant abused her over her caste by Appellant. Learned Counsel for informant submits that there is bar under Section 18 of the Atrocities Act to entertain pre-arrest Appeal.

5. No doubt when *prima offence* is made out

against accused persons committed under the Atrocities Act, the bar under Section 18 of the said Act would apply. As far as present case is concerned, perusal of the investigation papers do not show that the incident even if accepted to have occurred has not been witnessed by any independent persons. The Hon'ble Apex Court in case of Hitesh Verma Vs. The State of Uttarakhand & Anr, 2020(10)SCC 710 has held that the presence of the relatives and friends of informant is immaterial. Apart from this, record indicates that there are dispute between the parties over the trifle issue of throwing garbage in front of house of informant. There is unexplained delay of more than a month in lodging FIR. In such circumstances, possibility of false implication cannot be ruled out.

6. Appellant is lady with no criminal antecedents. Having regard to these facts, liberty of the Appellant deserves to be protected. Hence, Appeal is allowed by confirming interim order dated 20th July, 2023.

(R.M. JOSHI, J.)