



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 672 OF 2023

Dnyaneshwar Vishwanath Damale And Others
....Appellant

VERSUS

The Superintendent Of Police And Others
...Respondent

...

Mr. A. R. Kawade, Advocate for Appellantd
Mr. S. B. Jadhav, APP for Respondents
Mrs. Pratibha Suryawanshi, Advocate appointed for
Respondent No. 3.

...

CORAM : R.M. JOSHI, J
DATE : DECEMBER 20, 2023

PER COURT :

1. Appellants being aggrieved by rejection of anticipatory bail in connection with Crime No. 361/2023 registered with Vaijapur Police Station, Dist. Aurangabad for the offences punishable under Sections 325, 324, 323, 504, 506, 143, 147, 148, 149 of IPC and Sections 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act') have preferred this Appeal.

2. First informant reported incident occurred on 07.07.2023 at around 12.30 pm stating that Appellants along with co-accused came to the spot and that they

raised dispute with regard to the ploughing of the field. It is further stated that all accused abused informant and others over their caste and insulted them. It is also claimed that with fist and kick blows and wooden stick informant and others were assaulted and in which teeth of the son of informant got uprooted.

3. Learned Counsel for the Appellants submitted that admittedly there are disputes between the parties which could be seen from the civil proceedings. It is his contention that in respect of the incident of 07.07.2023 Appellant No. 1 had lodged report indicating causing of assault on Appellants and others. It is submitted that this report is lodged by way of counterblast. It is his further submission that allegation in the FIR of abuse of the accused is not within public view as no independent person has seen the said incident. He further submits that there are number of offences registered against informant indicating he is prone to commit crime in connection with lands.

4. Learned Counsel for informant opposed the Appeal by submitting that even if there are civil

disputes between parties, it is not open for them to take law in their hand to cause assault on the informant and others. She further submits that the allegations in the FIR about abuse over the caste to attract provisions of Atrocities Act even if accepted for the sake of argument it is not possible for number of persons abusing informant over caste in chorus, by relying upon the judgment of this Court dated 21.12.2022 in Criminal Appeal No. 637/2022 it is submitted that even otherwise offence under Section 3(2)(va) is made out against Appellant and as such, bar of Section 18 gets attracted to the present case.

5. Learned APP opposed the Appeal by relying upon the statements of the witnesses coupled with the injury certificates placed on record. According to him, grievous injury is caused to the son of the informant, which disentitles Appellants for any relief.

6. There is no denial of the fact that disputes exists between parties over the land and civil proceedings are also initiated between them. Preexisting disputes creates possibility of commission of crime and which leads to false/over implication.

Considering two reports lodged in respect of incident occurred on 07.07.2023 it can be said that certainly the some incident has occurred. Pertinently the Appellants as well as persons from the informant side sustained injuries therein. The possibility of causing of injuries to each other in the free fight cannot be ruled out.

7. Allegations with regard to abusing informant and insulting over the caste firstly allegation that in chorus they made one statement against them is not acceptable. Secondly, except for the close relatives of informant the said incident has not been witnessed by any other person. Considering the judgment of Hon'ble Apex Court in case of Hitesh Verma Vs. State of Uttarakhand and Another, (2020) 10 SCC 710, the present case does not come within the mischief of Section 3(1) (r) of the Atrocities Act. In order to attract offence under Section 3(2)(va) of the Atrocities Act, there has to be some material on record to indicate that merely because informant belongs to SC/ST community, the offence has been committed against him. Admittedly, when there are civil dispute are going on it does not

stand to any reason that only because informant is belonging to SC community offence is caused against him. Moreover, the record also does not indicate so.

8. Since the facts of the present case are different than involved in judgment in Criminal Appeal No. 637/2022, in considered view of this Court the same does not help the informant.

9. In view of above discussion, since there is every reason to believe that this could be a case of false implication, bar of Section 18 of the Atrocities Act will get not attracted to the present case. Hence, appeal stands allowed by confirming interim order dated 01st August, 2023.

10. Fees of Mrs. Pratibha Suryawanshi, learned Counsel appointed to represent Respondent No. 3, is quantified @ Rs. 6000/- (Rupees Six Thousand Only) to be paid by High Court Legal Services Sub-Committee, Aurangabad.

(R. M. JOSHI, J.)

Malani