



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 703 OF 2023

Kailasrao Shankarrao Sangle ...Appellant

Versus

The State of Maharashtra & Anr ...Respondents

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Mr. S. S. Jadhavar, Advocate for the Appellant.

Mr. S. B. Jadhav, APP, for the Respondent – State.

Mr. A. P. Raka, Advocate for the Respondent No. 2
(appointed)

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CORAM : R.M. JOSHI, J

DATE : DECEMBER 05, 2023

PER COURT :

1. Appellant apprehends arrest in connection with with C.R. No. 242 of 2023 registered with Jintur Police Station, Dist. Parbhani for the offences punishable under Sections 143, 147, 149, 323, 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. First informant is a lady. She claim herself to be member of scheduled tribes community. It is her contention in the report that present Appellant had advised her husband to file civil suit in respect of

property purchased by the informant and her husband. It is also claimed that for the purpose of litigation Appellant had received Rupees Five lacs from informant's husband. It is specifically claimed that without filing any case in the Court, said amount was taken and when refund was sought of the said amount, Appellant abused and assaulted informant over her caste.

3. Learned Counsel for the Appellant submits that allegations made in the FIR, on the face of it, are false. To support his submissions, he placed reliance on photocopy of the plaint in RCS No. 87/2018 which is filed by the husband of the informant. It is contended that in the said proceedings Exhibit 5 came to be allowed in favour of the plaintiff. According to him, unfortunately the Advocate for the plaintiff died and thereafter, since the plaintiff failed to appear in the said proceedings, it came to be dismissed for want of prosecution.

4. Learned Counsel for the informant submits that the incident in question has occurred in public view and there are statements of witnesses which indicate

that the Appellant herein abused and assaulted informant over her caste. It is his contention that there is bar under Section 18 of the Atrocities Act for grant of anticipatory bail.

5. Learned APP also opposed the Appeal by contending that apart from statements of the persons accompanying the informant, statements of independent witnesses are recorded which indicates occurrence of incident involving abuses and insult of the informant over the caste.

6. During the course of hearing submission is sought to be made, on instructions, from informant, who is present before the Court, that it is a case that the informant had filed suit and thereafter the lawyer expired and then the Appellant herein had assured the informant and her husband of engaging another lawyer. Failure on his part to do so has resulted into the dismissal of the suit and for this reason informant and others were seeking refund of the fees.

7. Learned appointed Counsel was called upon to seek instructions from the informant as to whether this

fact was informed to the police at the time of recording of the report or it is her case that report is not recorded as per her say. On instructions, learned Counsel for informant states that report has been recorded as per say of the informant.

8. It is the case of the informant that there was dispute with regard to the land purchased from another person and present Appellant had advised them to file suit. It is claimed therein that before filing of the suit sum of Rs. 5 lacs were paid. It is further alleged that though money was received, no suit was filed. The said statement made in the FIR is falsified with the copy of plaint in RCS No. 87/2018 filed before CJSD, Parbhani. There is document on record to indicate that suit is not only filed but also application for interim relief came to be allowed in favour of the plaintiff i.e., husband of the informant herein. Apart from this, from complaints made by informant, it appears that on 03rd August, 2021 as well as 08th October, 2022 complaints were made by the Appellant against husband of the informant stating that Appellant is being threatened for payment of Rs. 6 lacs and in failure to

pay the same, he is being threatened for involving him in crime by filing of complaint under the Atrocities Act.

9. No doubt, Section 18 of the Atrocities Act prohibits entertainment of application for anticipatory bail, however, wherever Court comes to the conclusion that it could be a case of false implication, it can be said that the offence is not made out under the Atrocities Act. Having regard to personal liberty of any individual, in such circumstances the bar under Section 18 of the Atrocities Act would not get attracted.

10. In case in hand, as observed herein above, the allegation in the FIR with regard to the receipt of money, non filing of suit, etc are false on the face of it. In this backdrop, if other facts are ascertained then it is clear that it is the informant who along with her husband and other relatives went to the house of the Appellant. It is claimed that the informant was abused in the said incident. However, perusal of the report does not show that any insult of the informant is caused. On the contrary, there appears a vague

statement made in the FIR with regard to abuse.

11. Here is the case wherein much before filing of the present report there are incidents in which the Appellant was called upon to pay money by the informant and in failure thereto was threatened of false implication. The documents placed on record by the Appellant shows that the acknowledgment of the concerned police authority of having received the said complaint. This documentary evidence more than sufficiently *prima facie* indicates that such incident of attempt to recover money from the Appellant had occurred prior to two years of the present incident. In such circumstances, this Court finds substance in the contention of learned Counsel for the Appellant that this could be a case of false implication. Once a genuine doubt is created about the veracity of the allegation, merely because some statements are recorded by the investigating officer, which are similar to first information report, liberty of the Appellant cannot be denied. Liberty of the Appellant was protected by interim order dated 11th August, 2023. There is nothing on record to show that Appellant

abused the said liberty.

12. In view of above, Appeal stands allowed by confirming interim order dated 11th August, 2023.

13. Fees of Mr. A. P. Raka, learned appointed Counsel for Respondent No.2, is quantified @ Rs. 6,000/- (Rupees Six Thousand Only) to be paid by High Court Legal Services Sub-Committee, Aurangabad.

(R. M. JOSHI, J.)

Malani