

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 770 OF 2023

Shrikishan tukaram Thete & another

Appellants

Versus

The State of Maharashtra & others

Respondents

Mr. S. J. Salunke, Advocate for the appellants.

Mr. V. S. Badakh, APP for the State.

Ms. Sushama Jadhav, Advocate for respondent No. 3.

CORAM : R. M. JOSHI, J.

DATE : 26th SEPTEMBER, 2023.

PER COURT :

1. Being aggrieved by order of rejection of anticipatory bail application in connection with Crime No. 298/2023 by learned Additional Sessions Judge, Parbhani, this appeal is filed under Section 14A of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

2. Learned counsel for the appellant submits that there is political rivalry between two groups of Gram Panchayat and that complaints are lodged against each other with the help of members of Scheduled Caste and Scheduled Tribe community. In order to support his submission, he placed reliance on the complaint lodged by

Sharad Chavan on 6th August, 2023 against the person from opposite group. It is his submission that wife of the informant is member of Gram Panchayat Warud and complaints were made on 10th April, 2023 and 23rd May, 2023 by appellants along with others against the affairs of the Gram Panchayat. As regards appellant No. 2, it is his submission that name of this appellant is not mentioned in the First Information Report and there is no allegation against him that he abused the informant over his caste. It is his further submission that having regard to the political rivalry between the parties, possibility of false implication cannot be ruled out and hence bar of Section 18 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act would not be applicable to the present case.

3. Learned counsel for the informant opposed the said submission by stating that the alleged complaints were lodged on 10th April, 2023 and 23rd May, 2023 and therefore, they have no nexus with the First Information Report lodged against the appellants herein. It is her submission that supplementary statement of the informant clearly shows that the name of appellant No. 2 was inadvertently not recorded in the First Information Report it has been corrected by recording supplementary statement. It is further

submitted that the fact of hospitalisation of informant for 4 to 5 days clearly indicates that he was brutally assaulted in the said incident.

4. Learned APP opposed the appeal by referring to the statement of witness who corroborates the version of the informant about the incident of assault caused on the informant as well as he being abused over his caste. He also relied upon the injury certificate in order to show that about four injuries were caused to the informant which supports his claim about the incident of assault.

5. There is no dispute about the fact that wife of the informant is member of Gram Panchayat. Record indicates that there are complaints made in respect of the affairs of the Gram Panchayat by present appellants. Thus, possibility of existence of political dispute between the two groups cannot be ruled out. In the light of this possibility, if the statements of witnesses are perused, it clearly indicates that it is claimed by them that the person named Govind Kolekar was not present at the spot of the incident nor any such person resides in the village. This creates doubt about the allegations made by the informant in the First Information Report about the occurrence of the incident and the manner in which it is

stated to the police. No doubt, in the supplementary statement, it is subsequently claimed by him about the role of appellant No. 2 of abusing him at around 11.00 pm when he was referred to the Government Hospital, Parbhani. There is no statement of any other witness in order to corroborate the said claim of the informant. Having regard to these facts, the possibility of false implication is not ruled out. In such circumstances, bar of Section 18 of the Act does not get attracted to the present case. In the result, appeal stands allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb