



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

CRIMINAL APPEAL NO.832 OF 2023

1. Shivaji Damodar Navle
 2. Shivaji Prabhakar Navle
- ... APPELLANTS

VERSUS

1. The State of Maharashtra
 2. XYZ
- ... RESPONDENTS

Mr. G. J. Pahilwan, Advocate for the applicants
Mr. N. B. Patil, APP for the respondent/State
Mr. Sayali Tekale, Advocate (appointed) for the informant

CORAM : R. M. JOSHI, J.
DATE : 7th DECEMBER, 2023

P.C. :-

1. When this Court has shown its disinclination to grant relief to the applicant No.1-Shivaji Damodar Navle, learned counsel for the applicants seeks withdrawal of the appeal. Appeal stands dismissed to the extent of applicant No.1-Shivaji Damodar Navle.

2. As far as appellant No.2 is concerned, he apprehends arrest in connection with 340 of 2023 registered with Pachod Police Station, Dist. Aurangabad for the offences punishable under Sections 354, 324, 504, 506 r/w 34 of IPC and under Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(1)(w) (i), 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

3. First informant is a member of Scheduled Tribe community. She claims that there was a dispute over the construction of road in front of the house of the informant. It is alleged on 24th August, 2023 at around 6 pm applicants and co-accused obstructed informant and her husband and they abused them raising issue about the road. There is allegation against the co-accused that he assaulted the husband of the informant with iron rod on his head and hand. There is also allegation against all accused of outraging modesty of the informant.

4. Learned counsel for the appellants submits that there is delay of two days in lodging of the report. It is his submission that owing to the dispute with regard to the road the possibility of false implication is not ruled out. According to him, there is no allegation against the appellant of attracting the provisions of Atrocities Act. It is his contention that the alleged grievous injury is not attributable to the present appellant.

5. Learned counsel for the informant as well as the learned APP opposed the appeal by citing the provisions of Atrocities Act as well as the allegations made by the informant and supported by the statement of the witness.

6. Since the informant is present in the Court through learned APP and learned counsel for the informant she was asked as to whether she

went to the concerned police station immediately after the occurrence of the incident, to which she replied that she went to the police station, the day on which the report is lodged. Thus, this Court finds substance in the contention of the learned counsel for the appellant that there is delay in lodging of the report. From the report itself it is clear that some dispute is there between the parties over the issue of construction of road in front of the house of the informant. The delay in lodging of the FIR therefore creates doubt about the veracity of the allegations against present appellant. There is nothing on record to show that any grievous injury can be attributable to him, hence appeal is allowed in terms of interim order to the extent of appellant No.2-Shivaji Prabhakar Navle. Considering the apprehension of the informant as raised by the learned counsel for the informant, the appellant No.2 is directed to attend concerned police station once in a week till filing of the charge-sheet.

7. Fees of the appointed learned counsel is quantified Rs. 6000/- and it is to be paid by the High Court Legal Services Authority, Sub Committee, Aurangabad.

(R. M. JOSHI, J.)

ssp