



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

CRIMINAL APPEAL NO.880 OF 2023

1. Sunita Sagar Kute
 2. Jaya Sunil Kute
 3. Sunil Keru Kute
 4. Sagar Keru Kute
 5. Nandabai Keru Kute
 6. Kiran Vilas Kute
 7. Najir Adam Shaikh
- ... APPELLANTS

VERSUS

The State of Maharashtra and another

... RESPONDENTS

Mr. K. N. Shermale, Advocate for the applicants
Mr. S. B. Jadhav, APP for the respondent/State
Ms. Manjushri S. Narwade, Advocate (appointed) for the onformant

CORAM : R. M. JOSHI, J.

DATE : 7th DECEMBER, 2023

P.C. :-

1. Appellants apprehend arrest in connection with Crime No. 392 of 2023 registered with Ghargaon Police Station, Dist. Ahmednagar for the offences punishable under Sections 324, 143, 147, 149, 323, 504, 506 of IPC and under Sections 3(1)(r), 3(1)(s), 3(1)(u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. First informant has alleged incident occurred on 06/08/2023 claiming that in all eight persons abused and assaulted informant. There

is allegation against the co-accused who is not appellant that he used stick for causing the said assault. The allegation against the other accused is of using kicks and fist blows. As far as abuses and insult over the caste it is stated that all the accused persons abused informant over the caste.

3. Learned counsel for the appellants submits that there are disputes between the parties which can be seen from the first information report bearing No. 391 of 2023 registered with Ghargaon Police Station by the one of the appellant. It is submitted that it is practically not possible to accept the contention that in chorus eight persons could have abused the informant over the caste. As far as the injuries are concerned, according to him the same are not attributable to the present appellants.

4. Learned APP and learned counsel for the informant opposed the appeal by relying upon statement of the informant coupled with injury certificate. According to them, injury certificate indicates the occurrence of the incident.

5. Even if it is accepted that some incident did occur on 06/08/2023, first informant never alleges against the present appellants that they used any weapon to cause assault. The allegation against them is not

using kick and fist blows. Thus, the offence against them may not travel beyond Section 323 of IPC. As far as the offence under the Atrocities Act with concerned as rightly argued on behalf of the appellants that it is not possible to digest that eight persons at one stroke/go abused the informant as claimed. Owing to the previous disputes the possibility the false/over implication is not ruled out. Considering the above facts the bar of Section 18 of the Atrocities Act does not get attracted to the present case. Hence, the appeal is allowed in terms of interim order dated 27th September, 2023.

6. 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