

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

**919 CRIMINAL APPEAL NO.992 OF 2022
WITH APEAL/898/2022**

**YETIRAJ DNYANOBA KENDRE AND OTHERS
VERSUS
THE SUPERINTENDENT OF POLICE, LATUR AND OTHERS**

Mr.D.M. Shinde h/f. Mr.S.B. Madde, Advocate for the appellants.
Mrs.D.S. Jape, APP for the respondent/State.
Mr.R.D. Biradar, Advocate for respondent No.3.

**CORAM : KISHORE C. SANT, J.
DATED : 02.02.2023**

PC :-

01. Heard learned Advocates for the parties. Perused the papers. The learned Advocate for the appellants has taken this Court through the entire FIR. In the FIR the allegations are that the appellants had been in front of the house of the informant. The informant was immediately called by making phone call. There was quarrel on account of blocking of drainage line and on that count there took place some altercation between the parties. The allegations mainly are against Dharubiai, Savitribai, Yaman, that they have assaulted the wife of the informant in the house. The assault is with the wooden log etc. The next allegation is that Baliram snatched mobile handset from the wife of the informant. On that some persons gathered on the spot.

The informant started proceeding towards police station for giving complaint. At that time Dharubai snatched key of the motor cycle and threatened the informant. Other persons abused in the name of caste and gave threats that if FIR is lodged, he will not be spared etc. In the incident even Mangalsutra of wife of the informant is lost. The learned Advocate submits that thus looking at the FIR, it is clear that first alleged incident has taken place in the house of the respondent-informant. At the most allegation is against Baliram and that too he abused in the house. Another allegation against Baliram is that he snatched Samsung mobile. He submits that there is only general allegation. No specific name is mentioned by the informant in the FIR that he has abused in the name of caste. Merely saying that all the persons abused in the name of caste is not sufficient to attract the provisions of the Act, when essentially accused persons are eight in number. He informs that Baliram against whom the allegations are there, has been already arrested as he was not protected by this Court while issuing notice. He prays for allowing the appeals.

02. The learned Advocate for the informant vehemently argued both the appeals. It is submitted that the allegations are clearly making out case under the Atrocities Act. Second incident has taken place in the public view

where all the accused persons were present. The abuses are given by all the accused persons. When common intention is shown to be present in the mind of all the persons, it is not necessary to mention specific name of any one or two persons, who have uttered words in the name of caste.

03. The learned APP submitted that the offence is serious. It is clear from the FIR that there were abuses given in the name of caste. She submits that there is also injury certificate, which shows that simple injury is received by the wife of the informant and thus prays for rejection of the appeal.

04. Considering the FIR as it is, it is seen that there is no specific name mentioned as to who exactly uttered words, abused informant or his wife in the name of caste in the second incident. Some allegations does indicate that it is Baliram, who had abused the informant in the name of caste and he has also snatched mobile phone from the wife of the informant. However, he is already arrested and therefore his case need not be considered. Considering the FIR as it is, this Court finds that no specific allegations are made out attracting the case under the Atrocities Act, so far as present appellants are concerned except Baliram. Hence, the following order :-

ORDER

- (i) The Criminal Appeal No. 992 of 2022 is disposed off as infructuous to the extent of appellant No.2-Baliram.
- (ii) Insofar as other appellants are concerned, both the appeals are allowed.
- (iii) In the event of arrest, the appellants be released on bail on furnishing PR bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one solvent surety in the like amount each.
- (iv) The appellants shall attend the concerned police station as and when required by the Investigating Officer.
- (v) The appellants shall not tamper with evidence and they shall not contact any of the witnesses.
- (vi) With the above directions the Criminal Appeals are disposed off.

[KISHORE C. SANT, J.]