

Ashok Chandranath Naikwadi and ors .. Appellants

Versus

The State of Maharashtra & Anr .. Respondents

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CORAM: BHARATI DANGRE, J.  
DATED : 6<sup>th</sup> APRIL 2023

P.C:-

1           The appellants being arraigned as accused no.1, 2 and  
4 in C.R.No. 044/2023 with Vairag police station are accused of  
committing offence punishable u/s.143, 147, 149, 323, 324, 327,  
504, 506 IPC along with Section 3(1)(r), 3(1)(s) and Section 3(2)  
(v)(a) of the Scheduled Caste and Scheduled Tribes (Prevention  
of Atrocities Act), 1989.

The complaint came to be lodged on 6/2/2023 by Shri Samadhan Bansode, Sarpanch of Village Malegaon (R). He narrated that at around 10.00 am in the morning, the Members of the Panchayat had gathered for conducting auction of a tank in

their village for allotment of fishing rights. He gave names of the members of the Panchayat, who were present and also referred to presence of one Nivrutti Sandipan Ghodke.

The allegation is at that time, accused no.1 Ashok abused him in the name of caste and alleged that his behaviour as a Sarpanch is improper and also threatened him, that he will see as to how, the auction takes place. He pulled him by his collar and assaulted him by his hands.

Further narration in the FIR is to the effect that other accused persons, i.e. Accused no.2 Mahendra, Accused no.4 Bajirao along with other accused persons abused him in the name of caste and also assaulted him.

Thereafter, Nivrutti, who was present on the spot came to his rescue, but it is alleged that Bajirao picked up a stick lying nearby and assaulted the complainant on his arm. It is also alleged that Mahendra picked up a sum of Rs.1500/- from his pocket. All the accused persons threatened all those who had gathered on the spot.

2 Another version of the very same incident surfaces through a complaint filed by Nilesh Bhusare i.e. Accused no.6 in whose favour the fishing rights were allotted in the previous year and he was aggrieved that the auction process was being conducted without his term coming to an end. He, therefore, questioned the Sarpanch as to how the auction is being conducted

and at that time, it is alleged the Sarpanch threatened that since the term of the earlier Sarpanch is over, so is his term of fishing.

He also uttered that since he did not vote for his party and rather voted for opposite party, he was threatened to be falsely implicated in a case, since he belong to Scheduled Caste. Thereafter, there is reference of some abuses and overt act on behalf of Mahadev and Rohidas, who was also present on the spot. This resulted in registration of C.R.No. 445/2023 with the very same police station which invoke Section 323, 324, 504, 506 r/w Section 34 IPC.

3 Undisputedly, two versions are coming on record in respect of the same incident and an attempt on part of the counsel for the appellants is to reflect that the FIR is false and registered only to implicate the accused persons and no such abuses were hurled in the name of the caste in public view, which would have attracted an offence u/s.3(1)(r) and 3(1)(s), is made out.

4 Reading of the subject FIR i.e. C.R.No.044/2023, one thing is apparent that specific accusations are levelled against Ashok accused no.1, whereas in respect of the other accused persons, a collective role is attributed to them that they have abused the complainant in the name of the caste. As far as the accusations of assault is concerned, since it was minor in nature and only Section 320 is invoked, it definitely do not warrant any custodial interrogation.

5           Applying the law as crystallized by the Hon'ble Apex Court in case of *Prathviraj Chavan Vs. State of Maharashtra, (2020) 4 SCC 727*, the FIR has to be read, as it is, and in case if it make out a prima facie offence, no interference is warranted and the bar created u/s.18 of the SCST Act, immediately comes into picture, but if a prima facie case is not made out, then there is no prohibition in releasing the accused on bail or even quashing the subject FIR.

6           In the light of the aforesaid pronouncement, if the FIR is read as it is, specific accusations are faced by appellant no.1 and obviously the incident took place in public view, in presence of several members of the Gram Panchayat as well as two independent persons, whose reference is to be found in the complaint.

As far as appellant nos.2 and 3 i.e. accused no.2 and 4 in the C.R are concerned, the complainant has not specifically named these persons as the one who had hurled casteist abuses, but a collective role is attributed to them.

7           The two appellants therefore, deserve protection from arrest by taking a *prima facie* view of the matter which do not specifically make out the offence u/s.3(1)(r) and 3(1)(s) against them.

8           Hence, the application of appellant no.1 – Ashok Chandranath Naikwadi, stand rejected.

The appellant no.2 Bajirao Shivaji Ghodake and appellant no.3 Mahendra Satish Ghodake, are entitled for protection by the following order :

ORDER

(a) In the event of their arrest, appellant no.2 Bajirao Shivaji Ghodake and appellant no.3 Mahendra Satish Ghodake in connection with C.R.No.44/2023 registered with Vairag Police Station, Solapur, shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.

(b) The appellants shall report to the concerned police station every Thursday between 4.00 p.m to 6.00 p.m for a period of four weeks.

(c) The appellants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

Appeal stand disposed off.

( SMT. BHARATI DANGRE, J.)