

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1175 OF 2022

Ravindra Rangrao Jadhav

Appellant

versus

The State of Maharashtra and another

Respondents

Mr.Ashish Vernekar i/by Mr.Rohit Shevate, Advocate for Appellant.

Mr.Y.Y.Dabake, APP, for State.

PSI Narendra B. Patil, Kodoli Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 26th July 2023

PC :

1. Service report dated 19th January 2023 is received from Kodoli Police Station stating that Respondent no.2 has expired.
2. This appeal u/s.14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as 'Atrocities Act') challenges the order dated 23rd June 2020 passed by Special Judge and Additional Sessions Judge, Kolhapur rejecting Criminal Bail Application No.451 of 2020 for anticipatory bail filed by Appellant and others. The informant registered C.R No.155 of 2020 against Appellant and others u/s.188, 323, 34, 427, 506 of Indian Penal Code and u/s.3(1)(g) and 3(2)(va) of Atrocities Act.
3. Brief facts of the prosecution case is that the first informant belongs to Scheduled Caste. She was resident of Village Jakhale, Tal.Panhala. She had constructed bath room in front of her house. One Banabai Kisan Jadhav is having open land. Appellant is residing in the open land. Few months ago appellant had purchased the open land from Banabai Jadhav and he measured the same. Appellant

informed the first informant that bath room was constructed within the limit of purchased land and that she should remove the structure. First informant told him that due to lock down she could obtain any document from Government office and he should wait till lifting of lock down. On 13th June 2020 when first informant and her daughter in law were present in the house, accused came there. Despite knowing the caste of informant, they dismantled the bath room, tin shed and damaged water tank. On resistance from the informant and daughter in law they were assaulted with hand. FIR was registered.

4. Learned advocate for Appellant submitted that land on which the bath room was constructed belongs to Appellant. He had purchased it from original owner. The FIR reveals that request was made to the complainant to remove the bath room as the property belongs to Appellant. However, first informant did not remove it. She is not the owner of property and hence offence u/s.3(1)(g) and 3(2)(va) is not attracted. Bar u/s.18 of Atrocities Act is not applicable in this case.

5. Learned APP submitted that investigation is complete. Appellant has demolished the bath room constructed by first informant. Investigation revealed that Index-II relating to the property shows that land on which the bath room was constructed belongs to Appellant.

6. From the FIR and other documents it is apparent that case relates to demolition of bath room constructed by first informant. The contents of FIR itself indicate that property on which the bath room was constructed was purchased by Appellant five months ago from the owner. The complainant was informed about it. She was requested to remove the bath room. The complainant had allegedly

sought time to remove it on account of lock down. Thus, it appears that ownership of the land on which bath room was constructed was not disputed. In these circumstances, the offences invoked against Appellant are not attracted prima facie and hence bar u/s.18 of Atrocities Act would not be an impediment to allow this appeal and grant relief sought in this appeal.

ORDER

- (i) Criminal Appeal is allowed and disposed off;
- (ii) Impugned order dated 23rd June 2020 passed by Special Judge and Additional Sessions Judge, Kolhapur below Exhibit-1 in Criminal Bail Application No.451 of 2020 is quashed and set aside;
- (iii) Interim order dated 24th July 2020 is confirmed;
- (iv) In the event of arrest of Appellant in connection with C.R No.155 of 2020 registered with Kodoli Police Station, District Kolhapur, Appellant be released on bail on executing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (v) Appellant shall appear before Investigating Officer as and when called for.

(PRAKASH D. NAIK, J.)

MST