

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 807 OF 2023

Alim Abedalli Shaikh

...Appellant

vs.

The State of Maharashtra and Anr.

...Respondents

Mr.Ujwal Agandsurve - Advocate for Appellant.

Mr.S.R.Agarkar - APP for Respondent No.1 - State.

Mr.R.P.Tathe - ASI - Vijapur Naka Police Station - Solapur.

CORAM : S. M. MODAK, J.

DATE : 4th DECEMBER 2023

P. C. :-

1. Heard learned Advocate for the Appellant and learned APP.

2. This Court has already made it clear on 7th November, 2023 that if there is no appearance on behalf of the Respondent, the order dated 21st July, 2023 will be confirmed. There is neither service report nor intimation to Respondent No.2. However, the fact that the charge-sheet is filed, I have heard the parties.

3. Copy of the charge-sheet is shown to me. It is true that this Appellant is not named in the FIR. Offence is under Sections 143, 147, 323, 341, 367, 504, 506 of Indian Penal Code, 1860 ["IPC"] as well as under Sections 3(2)(V), 3(2)(Va) of the Scheduled Castes and the Scheduled Tribes (Prevention

of Atrocities) Act, 1989 [“SC & ST Act”]. So, only the role alleged against the Appellant is that he accompanied the main Accused No.1 – Akil Basha Shaikh.

4. Be that it may, there has to be some role either alleged by the First-Informant or disclosed during investigation. Confession of co-accused has no evidentiary value. The trial Court has not dealt with all these aspects as the same are subsequent developments. Hence, the order needs to be set aside. So, the interim order dated 21st July, 2023 can be confirmed. Hence, order :-

O R D E R

- (i) The interim order dated 21st July, 2023 is confirmed.
 - (ii) The order dated 5th July, 2023 passed by the I/c. Additional Sessions Judge – 4, Solapur is hereby set aside.
5. In view of the above, Appeal is disposed of.

[S. M. MODAK, J.]