

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPEAL NO.34 OF 2022

Ravindra Narayan Vaze] .. Appellant
vs.

State of Maharashtra & Anr.] .. Respondents

WITH

APPEAL NO.21 OF 2022

Ram Dashrath Patil] .. Appellant
vs.

State of Maharashtra & Anr.] .. Respondents

WITH

APPEAL NO.22 OF 2022

Santosh Bahadur Amate] .. Appellant
vs.

State of Maharashtra & Anr.] .. Respondents

WITH

APPEAL NO.43 OF 2022

Sachin s/o Kisan Chavan] .. Appellant
vs.

State of Maharashtra & Anr.] .. Respondents

Mr.Anil D'souza a/w Valentine Mascarenhas for the Appellant in Appeal No.34/2022.

Mr.Sidheshwar Biradar a/w Yash Sonawane for the appellant in Appeal Nos.21/2022 and 22/2022.

Mr.Govind Solanke a/w S.S. Thhombre for the Appellant in Appeal No.43/2022.

Ms.Anamika Malhotra, APP for State-Respondent No.1.

Ms.Shaila Kanthe i/b Nitin Satpute for Respondent In all Appeals.

PSI J.B. Ahirrao, Javhar Police Station, Palghar, present.

CORAM : BHARATI DANGRE, J

DATE : 16th March, 2023

P.C.

1] Four Appellants are arraigned as Accused in CR No.97/2021 registered to Jawhar Police Station, on the accusations under Section 500 and 506 of the Indian Penal Code, Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, was added to the CR, on the supplementary statement of the complainant being recorded two days after the lodging of FIR and Section 3(1)(u) of the Act of 1989 was involved.

2] Section 3(1)(u) of the Act of 1989 stipulate that whosoever not being member of Scheduled Caste or Scheduled Tribe, by words either written or spoken or by signs or by visible representation, promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes, shall be liable for the punishment as contemplated under the said Act.

3] The complaint is lodged by the complainant on 11.11.2021 and admittedly it do not contain any accusation, that the complainant was abused in the name of his caste or any atrocity being committed, which would attract provisions of the Act of 1989.

On 13.11.2021, the complainant recorded his supplementary statement, wherein, he make specific reference to Ravindra Vaze (Appellant in Appeal No.34/2022) with reference to an incident which took place one year back, to be precise, on 22.11.2020, where he stated that when he resumed duty and took charge of the post, the Appellant Ravindra Vaze visited his chamber and inquired about his

caste and uttered that in the office all other persons are of higher caste and therefore he would face some difficulty in working.

In the second part of supplementary statement, the complainant make reference of some conversation in one mobile audio clip, which is received by him on his mobile on 28.10.2021, which recorded some conversation between Sachin Chavan (Appellant in Appeal No.43/2022) and Ravindra Vaze (co-accused). Some utterances are specifically referred to in the complaint.

3] On completion of investigation, charge-sheet is now filed and charge-sheet include transcript of the conversation between Sachin Chavan and Ravindra Vaze.

I have personally perused the said conversation, which for the two reasons cannot be said to substantiate the charge under the Act of 1989. Firstly, there is no reference of the complainant in the entire conversation and secondly there are no casteist remarks, which are uttered or there are any words which would promote or attempt to promote feelings of hatred or ill will against the members of Scheduled Caste and Scheduled Tribe.

4] In Criminal Appeal No.227/2022, the co-accused who was arrested, came to be released on bail by this Court (Revati Mohite Dere, J) by an order dated 11.03.2022. The Court had an opportunity to peruse the transcript, which was alleged to have attracted the offence under the Act of 1989 and the Court arrived at a conclusion that there is nothing to indicate that any abuses were uttered in the name of caste, which would have attracted an offence under the Act of 1989 and by recording that the investigation is complete and charge-sheet is filed, the accused was released on bail.

5] As far as the four appellants before me are concerned, all are admitted to interim protection by recording prima-facie case in their favour and the protection continue till today.

Further development is that, now the investigation being completed, charge sheet is filed and material on the basis of which Appellants are arraigned as accused is compiled by the investigating agency in the charge-sheet.

6] Prima-facie, the material in the charge-sheet falls short to prove the offence under Section 3(1)(u) of the Act of 1989. It is informed that the provisions of Section 3 of the Official Secret Act invoked in the subject CR have been dropped.

In the wake of above, I deem it appropriate to confirm the interim orders granted in favour of the appellants.

The interim order dated 12.01.2022 granted in favour of the Appellants Ram Patil and Santosh Amate, interim order dated 19.01.2022 granted in favour of Appellant Sachin s/o Kisan Chavan and interim order 21.01.2022 granted in favour of Appellant Ravindra Narayan Vaze, are confirmed, subject to the same terms and conditions.

All Appeals are disposed off in the aforesaid terms.

[BHARATI DANGRE, J]