

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

CRIMINAL APPEAL NO. 199 OF 2023

Vitthal Bapurao Ghadage ...Appellant
Versus
State Of Maharashtra And Anr. ...Respondents

....

Mr. Sagar Tambe a/w Mr. Changdev Shingade i/by Mr. Ritesh M. Thoble, Advocate for the Appellant.

Ms. Shraddha Sawant, Advocate for Respondent No.2.

Mrs. Anamika Malhotra, APP for the Respondent – State.

Mr. Arjun Bhosle, DYSP, Pandharpur Police Station.

Mr. Mahesh Mundhe, PSI, Kharkambh Police Station, Solapur Rural.

CORAM : PRAKASH D. NAIK, J.
DATE : 28th JULY, 2023.

PER COURT:

1. This an appeal under Section 14-A Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC and ST Act'). The appellant is apprehending arrest in connection with C.R. No.6 of 2023 registered with Pandharpur Taluka Police Station, Solapur Rural on 4th January, 2023 for offence under Sections 504, 3(1)(r), 3(1)(s) and 3 (2)(Va) of Atrocities Act.

2. The complainant has alleged that on 3rd January, 2023, he had received missed call from Appellant. The complainant gave a call to the Appellant and at that time the Appellant had abused him

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on the basis of caste. It is also alleged that the complainant C.R. No.6 of 2023 registered with Pandharpur Taluka Police Station, Solapur Rural is a witness in riot case of 2013 arising out of C.R. No.112 of 2013.

3. Learned Advocate for Appellant submit that the Appellant has no connection with the case of 2013. Assuming the allegations to be true, it cannot be said that the incident had occurred within public view.

4. Learned APP and learned Advocate for Respondent No.2 submitted that the complainant belongs to scheduled caste. In the FIR it is alleged that the Appellant has abused him on the basis of his caste.

5. From the contents of FIR it is apparent that the Accused/Appellant had allegedly abused the complainant on the basis of caste on cellphone. The incident had neither occurred within public view or in public place. Hence, the bar under Section 18 of the Atrocities Act would not be attracted.

ORDER

- i. Criminal Appeal No.199 of 2023 is allowed;
- ii. Order dated 4th February, 2023 passed by Special Judge (Atrocities Act), Pandharpur in Criminal Bail Application

No.22 of 2023 is set aside.

iii. Interim order dated 22nd February, 2023 is confirmed.

iv. In the event of arrest of the Appellant in connection with C.R. No.6 of 2023 registered with Pandharpur Taluka Police Station, Solapur Rural, the Appellant be released on bail on executing P. R. Bond in the sum of Rs.30,000/- with one or more sureties in the like amount;

v. The Appellant shall attend the Investigating Officer as and when called for.

vi. Appeal stands disposed off.

(PRAKASH D. NAIK, J.)