

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.322 OF 2023

Ketan Kaliraj Rathod

Appellant

versus

1. State of Maharashtra

2. Mahendra Sitaram Gaikwad

Respondents

Mr.Balwant Salunkhe, Advocate for Appellant.

Mr.V.A.Madane i/by Mr.C.K.Bhangoji, Advocate for Respondent no.2.

Ms.PN.Dabholkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 10th July 2023

PC :

1. This is an appeal u/s.14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short `Atrocities Act'). The appellant is aggrieved by order dated 22nd February 2023 passed by Additional Sessions Judge, Thane rejecting application for anticipatory bail.

2. Appellant is apprehending arrest in C.R No.453 of 2022 registered with Narpoli Police Station, Thane City, for offences under Sections 143, 144, 147, 148, 149, 323, 506, 452, 504 of Indian Penal Code, u/s.3(1)(r), of Atrocities Act and u/s.37(1) and 135 of Maharashtra Police Act.

3. The prosecution case in short is that one Shriniwas Yelgeti is Secretary of political party at Bhiwandi while the complainant is president of another political party at Bhivandi and there is political alignment between both the parties. The said Shriniwas informed the complainant that on 10th August 2022 at about 10.00 p.m one

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banner was erected at the office of political party at Anjurphata and it included photographs of political leaders and also the complainant. At 10.30 p.m the appellant along with 10 other persons under influence of liquor entered into the house of said Shriniwas and brought him out of the house and inquired whether his permission is obtained for erection of banner and told him to remove the banner since includes the photograph of complainant as he belongs to Mahar Community, a Scheduled Caste and at that time the other persons present with the applicant was having weapons in their hands. Thereafter, said Shriniwas informed about the incident to the complainant, who lodged police complaint.

4. Learned advocate for Appellant submitted that the alleged incident had occurred in the house of Shriniwas and it is alleged that accused had abused the complainant in the house of aforesaid person. The complainant was not present at the scene of offence. The incident had occurred in the house and therefore it cannot be said that the offence was committed within public view and at public place. Appellant and complainant had resolved the differences and complainant has filed affidavit supporting the reliefs sought by appellant in this appeal.

5. Learned APP on instructions submits that investigation is completed and charge sheet is filed on 15th December 2022.

6. Learned advocate for respondent no.2 has relied on affidavit by respondent no.2 stating that dispute is resolved.

7. Undisputedly the incident had occurred in the house of Shriniwas. The alleged abuses were hurled against complainant who was not present at the scene of offence. The incident did not occur within public view and at public place. There is no corroboration to the abuses by any independent person. The complainant has filed an

affidavit stating that complainant and appellant have resolved their differences and he has no objection for allowing this appeal.

8. Considering aforesaid circumstances, the appeal can be allowed.

ORDER

- (i) Criminal Appeal is allowed and disposed off;
- (ii) The order dated 22nd February 2023 passed below Exhibit-1 in Criminal Bail Application no.533 of 2023 by Additional Sessions Judge, Thane, Special Court (SC & ST Act) is quashed and set aside;
- (iii) Interim order dated 31st March 2023 is confirmed;
- (iv) In the event of arrest of Appellant in C.R No.453 of 2022 registered with Narpoli Police Station, Thane City, the Appellant is directed to be released on bail on his executing PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(PRAKASH D. NAIK, J.)

MST