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

CRIMINAL APPEAL NO.421 OF 2023

SACHIN SURESH JADHAV

..APPELLANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Anandmaya Dhorde i/b. Adv. Narayan Rokade a/w. Adv.
Ajinkya Taskar for the appellant.

Mr. Y. M. Nakhwa, APP for the State.

Adv. Sushil Inamdar for the respondent no.2.

PSI S. R. Kushare, Vadner Bhairav Police Station, Nashik.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 10, 2023.

P.C. :

1. Heard learned counsel for the appellant, learned APP
and learned counsel for the respondent no.2.

2. On 13/4/2023, this Court while grating interim
protection to the appellant observed thus: -

“2. On hearing the counsel for the appellant and
perusal of the subject C.R, which has invoked the
provisions of Scheduled Caste and Scheduled Tribes
(Prevention of Atrocities) Act, 1989, it is evident that as
far as the offence of Section 3(1)(r) and Section 1(s) of

the said Act are concerned, abuses are alleged to have been hurled, about one year back, and it is also not clear whether the abuses were in 'public view'.

Apart from this, prima facie, the offence u/s.3(1) (w), which punishes an act of intentional touching a woman belonging to Scheduled Caste, when such act of touching is of sexual in nature, is also not made out."

3. From the accusations in the First Information Report (FIR), it is seen that the respondent no.2-complainant was running a shop. Her husband died on 23/8/2016. There are allegations that one year prior to the incident, the appellant demanded protection/extortion money from the respondent no.2. Since November 2022, the respondent no.2 stopped paying the appellant protection/extortion money as she was facing financial difficulties. It is alleged that on 22/2/2023, the appellant got down from his Swift motor car near the respondent no.2's shop. He abused and assaulted her. In respect of the incident of 22/2/2023, there is no allegation against the appellant on caste. The allegation is that the appellant assaulted the respondent no.2 and took away a sum of Rs. 470/- which was lying in the drawer of the said shop.

4. So far as the allegations that the appellant abused the respondent no.2 in the name of caste is concerned, pertains the same to a period one year prior to the registration of the FIR. There is thus a delay in registration of the FIR so far as the offence under the Atrocities Act is concerned. As regards the second incident of 22/2/2023, there are no allegations on caste. Apart from this, there are no independent witnesses who have actually seen the appellant abusing the respondent no.2 on caste. It is also not clear whether the abuses were in 'public view'.

5. Learned APP and learned counsel for the respondent no.2 submitted that the appellant is a history sheeter and four cases were registered against him under the provisions of the Indian Penal Code. It is the contention of learned counsel for the appellant that the appellant has been acquitted in all these four cases. In any case, on instructions, learned counsel for the appellant submitted that he is willing to stay outside the jurisdiction of Vadner Bhairav Police Station for a period of six months from today. Statement is accepted.

6. The Criminal Appeal is allowed.

7. The impugned order is set aside.
8. The appellant to co-operate with the investigation.
9. Interim order of this Court dated 13/4/2023 is confirmed.
10. The Criminal Appeal is disposed of accordingly.

(M. S. KARNIK, J.)