

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 533 OF 2023

Navnath Sadhashiv Gavhane .. Appellant
Versus
State of Maharashtra and anr. .. Respondents
...

Mr. Rahul Kate i/b Mr. Digvijay S. Patil, for the appellant.
Mr. S.R. Agarkar, APP for the State.
Ms. Megha Bajoria, appointed Adv, for respondent no.2.

CORAM: BHARATI DANGRE, J.
DATED : 30th AUGUST, 2023

P.C:-

1 On 14/06/2023, the appellant was held entitled for protection from arrest since the Court considered the submission advanced that, the complainant belongs to Hindu-Pardhi community and the caste would fall within the category of Nomadic Tribe (NT) and therefore, the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not attracted.

2 On the last date, I had directed the learned APP, to ascertain the position, and Mr. Agarkar, on perusal of the material collected by the Investigating Officer, would submit that the complainant belongs to Pardhi community, which is recognized as a Scheduled Tribes, vide entry no.38 for 'State of Bombay' in the Scheduled Tribes order 1950, and therefore, the prima facie view, as expressed in the order dated 14/06/2023, is no longer substantiated.

3 I have perused the complaint, which has resulted in registration of the subject CR, which has invoked Sections 376, 511,

354, 354 (B), 506 r/w 34 of IPC and being a woman belonging to a Scheduled Tribe category the provision of Sections 3(1) (W), 3(2) VA, and Section 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, is also invoked.

When the complaint is read as it is, where the prosecutrix has specifically referred to an incident attributed to the present appellant, on prima facie reading of it, the offence under the provision of Atrocities Act is made out.

In the wake of the position as regards Section 18 of the Act, which has been clarified by Hon'ble Apex Court in case of *Prathvi Raj Chauhan vs Union of India Ors. (2020) 4. SCC 727*, I do not think that, the appellant deserve protection from arrest.

Necessarily, the order dated 14/06/2023, do not deserve confirmation in the appeal, in the wake of the accusations levelled against the appellant.

The Appeal is dismissed as the custodial interrogation of the appellant is very much necessary for investigation of the accusations faced by him in the complaint.

Appeal is dismissed.

4 Ms. Megha Bajoria, the learned counsel, who was appointed through legal aid has rendered her able assistance and the Court would like to put on record the appreciation towards her.

The Legal Services Authority is directed to make over the legal remuneration due and payable to Ms. Megha Bajoria, within a period of six weeks from today.

(SMT. BHARATI DANGRE, J.)