

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 928 OF 2023

Swati Vikas Chavan

.. Appellant

Versus

State of Maharashtra and ors

.. Respondent

...

Ms.Sonali Pawar with Sachin Patil for the appellant.

Mr.S.R. Agarkar, APP for the State.

Mr.Umesh A. Rothe from Ganeshpuri police station, Thane Rural.

CORAM: BHARATI DANGRE, J.

DATED : 28th AUGUST, 2023

P.C:-

1 The present Appeal is filed for cancellation of the protection conferred upon the accused persons in C.R.No.001/2023 registered with Ganeshpuri police station, Thane Rural which invoked offence u/s.354(b), 141, 143, 149, 509, 504, 506 of IPC and under Sections,

2 Heard learned counsel for the appellant, who has sought cancellation of the order dated 25/1/2023 on the ground that the learned Judge has not appreciated the necessary material as the complainant was not noticed.

With the able assistance of the learned counsel, I have perused the complaint lodged by the complainant belonging to the Schedule Caste and it is specifically alleged by her that her husband is running a hotel/kiosk in the area and they have been subjected to harassment by the accused persons. In the year 2021, an offence was registered and apart from this, various N.Cs came to be registered

3 The complainant referred to an incident dated 23/12/2022 which occurred in front of the house where she was abused verbally and the abuses were of such a nature that it outraged her modesty.

While considering the application filed by the accused persons, seeking their release in anticipation of their arrest, the learned Judge on perusal of the complaint, referred to the prolonged litigation between the two parties, having their vending stalls opposite to each other and rightly, in my opinion, also record that there is no abuse, in the name of caste.

Recording that prima facie no offence punishable under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out, by relying upon the authoritative pronouncements from the High Court, it is categorically recorded that the bar under Section 18 would not come into picture and for other accusations, his custodial

interrogation is not necessary, and was held entitled to be released on bail.

5 I cannot come to any conclusion, different than what is recorded by the learned Judge in the impugned order, as the complaint itself make a reference to the past rivalry between the parties and careful reading of the complaint, by no stretch of imagination would attract the provisions of Section 3(1)(r) and 3(1)(w)(i)(ii) as there are no abuses hurled in the name of caste, with an intention to cause humiliation to the complainant in public view.

I find no infirmity in the impugned order and therefore, upholding the same, the Appeal deserve to be dismissed.

Needless to state that upon the complaint being filed, the police station in-charge is duty bound to take cognizance if a cognizable offence is made out.

(SMT. BHARATI DANGRE, J.)