

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

CRIMINAL APPEAL NO. 570 OF 2023

Amrut Sudhakar Narvekar ...Appellant

Versus

The State of Maharashtra and Anr. ...Respondents

**WITH
CRIMINAL APPEAL NO. 568 OF 2023**

Vinod Gopal Narvekar and Anr. ...Appellants

Versus

The State of Maharashtra and Anr. ...Respondents

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Mr. Avinash Avhad i/by Mr. Mahesh V. Rawool, Advocate for the Appellant in both matters.

Mr. Suresh M. Sabrad a/w G. Saldana, Mr. Pratik Sabrad i/by Suresh M. Sabrad for Respondent No.2 in Criminal Appeal No. 570 of 2023.

Mr. Tejash Dande a/w Mr. Bharat Gadhavi, Mr. Pratik Sabrad, Ms. Trushna Shah, Mr. Vikrant Rharer i/by Mr. Suresh M. Sabrad for Respondent No.2 in Criminal Appeal No. 568 of 2023.

Mrs. Anamika Malhotra, APP for Respondent-State in Criminal Appeal No.570 of 2023.

Ms. Pallavi N. Dabholkar APP for Respondent-State in Criminal Appeal No. 568 of 2023.

Mr. Vinod Kamble (Dy.S.P) and Mr. N. R. Narale (PSI.) Malvan Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th JUNE 2023.

PC :

1. The Appellants have preferred Appeal under Section 14-(A) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*hereinafter referred to as SC and ST Act*) challenging the order dated 26th April 2023 passed by learned Special Court, Sindhudurg rejecting the application for Anticipatory Bail preferred by the Appellants.

2. The Appellants are apprehending arrest in connection with C.R. No.86 of 2023 registered with Malvan Police Station, Sindhudurg for offences punishable under Sections 352, 323, 504, 506 read with 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC and ST (Prevention of Atrocities) Act.

3. The prosecution case is as follows:-

On 4th April 2023, the first informant returned home after completing his work. At about 08.30 pm, he was talking to his friend Shrikant Javkar at Hublichamal, Titha. At that time, the accused Amrut Sudhakar Narvekar came to the spot on his motorcycle and questioned the complainant whether he is giving information about sand dumper. He was also questioned on his association with Khot. He was abused on caste. Accused slapped him and threatened to kill him. Thereafter, brother of accused No.1, Uday Narvekar and cousin Vinod Narvekar came to the spot. All of them assaulted the complainant with fist and kick blows. The accused Amrut Narvekar

abused him on his caste by linking him with Balu Khot and again questioned him whether he is providing information about sand dumper. The first informant was again assaulted. First information report was registered with Malvan Police Station on 15th April 2023.

4. Appellants preferred an application for anticipatory bail before the Special Court at Sindhudurg. The said application was rejected vide order dated 26th April 2023.

5. Learned Advocate for the Appellants submitted as under:-

(a) The First information report is false. It is motivated. The Appellants are falsely implicated in the crime.

(b) The FIR has been registered at the instance of Balu Khot, who is having animus with the Appellants.

(c) Caste abuses are attributed to Appellant Amrut Narvekar and not others.

(d) The provisions of Atrocities Act are misused by the first informant to implicate the Appellants in the Atrocities case at the instance of the persons, who are at loggerhead with the Appellants.

(e) The alleged abused on caste had not occurred within public view, which is requirement to constitute the alleged offences under Atrocities Act.

(f) The version of the complainant is not corroborated by any independent witnesses. The witnesses relied upon by the prosecution

are biased against the Appellants and associated with first informant.

The version of witnesses relied upon by prosecution is hearsay.

(g) Bar under Section 18 of the Atrocities Act would not be attracted in the present case and hence relief under Section 438 of Cr.P.C. can be granted to appellants.

(h) Offences under the IPC are bailable in nature.

(i) Custodial interrogation of the Appellants is not necessary.

(j) Appellant Vinod Narvekar had lodged the complaint against one of the witness relied upon by the prosecution.

6. Learned APP submitted that FIR prima facie makes out offences. The first informant was abused on his caste at public place within public view. During the course of investigation, statements of several witnesses were recorded which supports the prosecution. Bar under Section 18 of the Atrocities Act would be attracted. The Appellants are having criminal antecedents. Four cases were registered against Amrut Sudhakar Narvekar. C.R. No. 42 of 2008 was registered with Malvan Police Station for offences punishable under Sections 143, 147, 148, 149, 323, 324, 504, 506 of IPC. C.R. No. 76 of 2015 was registered with Kudal Police Station for offences punishable under Sections 353, 379, 347 of IPC. C.R. No. 127 of 2020 was registered with Kudal Police Station for offences punishable under Sections 269, 271, 188 of IPC and C.R. No. 189 of

2021 was registered with Malvan Police Station for offence under Section 379 read with 34 of the IPC. One case was registered in the past against Uday Sudhakar Narvekar vide C.R. No. 189 of 2021 for offence under Section 379 read with 34 of IPC. Two cases were registered against Vinod Gopal Narvekar vide C.R. No. 189 of 2021 for offence under Section 379 read with 34 of IPC and C.R. No. 53 of 2022 for offence under Sections 392, 323, 324, 327, 504, 506 read with 34 of IPC. The Appellants are repeatedly involved in committing crimes. The specific role has been attributed to the Appellants. All the Appellants had acted in furtherance of common intention. In view of restriction under Section 18 of the Atrocities Act, Appeal may be rejected.

7. Learned Advocate Mr. Dande and Mr. Sabrad appearing for first informant in respective Appeals submitted that although, the overtact of abuses on caste is attributed to Appellant Mr. Amrut Narvekar, all the Appellants had acted in furtherance of common intention. All the appellants are involved in assaulting and abusing the complainant on his caste. The Appellants are related to each other. There are criminal antecedents against the Appellants. In view of bar under Section 18 of the Atrocities Act, the application is not maintainable. The appellants are involved in illegal excavation of sand. While committing such offences, cases are registered against

them. Various petitions were filed against the accused alleging that, the accused are illegally excavating the sand. Upon misunderstanding that informant used to talk with Khot family and knowing fully well that informant belongs to schedule caste, the Appellants abused him in the name of his caste. Reliance is placed on the decision of the Supreme Court in the case of *Vilas Pandurang Pawar and Anr. Vs. State of Maharashtra and Ors. (2012) 8 SCC 795*.

8. I have perused the documents annexed to Appeals and investigation papers produced by the Investigating Officer. The FIR indicate that the incident in question had occurred on 4th April 2023 at about 08.30 pm at Hublichamal, Titha. As per FIR, specific role of abusing the first informant on his caste has been attributed to Appellant Amrut Sudhakar Narvekar. The other Appellants had not participated in the alleged abuses on caste against first informant. The offences under sections 323, 352, 504, 506 read with 34 of the Indian Penal Code are bailable in nature. During the course of investigation, statements of witnesses were recorded. Injury certificate indicate that, the first informant had suffered simple injuries. Witnesses Shrikant Vasudeo Javkar and Prajval Girish Prabhu are the eye witnesses to the incident. Learned Advocate for the Appellants submitted that the appellant Vinod Narvekar had lodged N.C. complaint against Shrikant Javkar under Sections 323,

504, 506 read with 34 of the IPC. It cannot be inferred that the said witness has any animus to implicate the Appellant Amrut Narvekar for abusing first informant on caste. Apart from the Shrikant Javkar, there is another witness referred hereinabove, who has seen the incident of abuses on caste.

9. Considering the fact that, caste abuses are attributed to Amrut Narvekar, who is also having several antecedents, no case is made out for grant of any relief to the said Appellant. However, the protection under Section 438 of Cr.P.C. can be granted to the Appellants Vinod Gopal Narvekar and Uday Sudhakar Narvekar, in the light of the averment made by the first informant in the FIR.

ORDER

- (i) Criminal Appeal No. 570 of 2023 is rejected.
- (ii) Criminal Appeal No. 568 of 2023 is allowed.
- (iii) Impugned order dated 26th April 2023 passed by learned Special Court, Sindhudurg *qua* Appellants in Criminal Appeal No. 568 of 2023 is set aside.
- (iv) In the event of arrest of the Appellants in Criminal Appeal No. 568 of 2023 in connection with C.R. No. 86 of 2023 registered with Malvan Police Station, Sindhudurg, be released on bail on executing PR bond in the sum of Rs.20,000/- each with one or more sureties in the like amount.

(v) The Appellants in Criminal Appeal No.568 of 2023 shall report concerned Investigating Officer on 26th, 27th and 28th June 2023 between 11.00 am to 01.00 pm and thereafter as and when called for.

(vi) Both the Appeals stand disposed off.

(PRAKASH D. NAIK, J.)