

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

CRIMINAL APPEAL NO. 586 OF 2023

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RASHIKANT ANIL KUMBHAR

..APPELLANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Ganesh Gupta a/w. Adv. Deepali Kedar, Adv.Sahil
Ghorpade, Adv. Aditya Ambekar for the appellant.

Ms. Anamika Malhotra, APP for State.

Adv. Shailesh Kharat for the respondent no.2.

HC/2192 M. S. Dhavi, Khalapur Police Station.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 10, 2023.

P.C. :

1. Heard learned counsel for the appellant.
2. The respondent no.2-original complainant filed First Information Report (FIR) on 22/3/2023 bearing C.R.No.92/2020 registered with Khalapur Police Station for the offence punishable under Sections 323, 504, 506 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter 'the Atrocities Act' for short).
3. It is alleged that on 21/3/2023, at around 10.30 p.m.,

the victim along with her husband and other two family members were going to her mother's house in an Eco Car which was driven by the victim's husband. While passing from the house of the appellant, the car hit a puppy dog. The puppy dog got injured. It is alleged that on 22/3/2023, when the victim was proceeding to her mother's house, the appellant stopped her and created a ruckus saying that it was because of her and her husband's mistake that their puppy dog got injured. It is alleged that the complainant was abused in the name of her caste.

4. Sometime thereafter on 24/3/2023, the appellant filed a complaint for registration of the FIR against the respondent no.2 and other for the offence punishable under Sections 354, 509, 428, 429, 506 of the IPC read with Section 11 of Prevention of Cruelty of Animals Act, 1960.

5. Learned APP as well as learned counsel for the respondent no.2 opposed the appeal and argued in support of the impugned order passed by the Special Judge rejecting the application made for pre-arrest bail.

6. Upon perusal of the proceedings, it reveals that there is a dispute between the appellant and the respondent no.2

over an accident which resulted in the appellant's puppy dog getting hurt for which the appellant was blaming the respondent no.2 and her husband. Further, at the time when the alleged abuses are hurled, there were no independent witnesses to the incident. The bar under Section 18 of the Atrocities Act will not apply in the present case.

7. The charge-sheet has now been filed. In my opinion, taking an overall view of the matter, the custodial interrogation is not necessary.

8. The appeal is, therefore, allowed.

9. The impugned order is set aside.

10. Interim order of this Court dated 16/5/2023 is confirmed.

11. The appellant to co-operate with the investigation.

12. The Criminal Appeal is disposed of.

(M. S. KARNIK, J.)