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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.623 OF 2023

Uddhav Shankar Shejwal & Ors.] .. Appellants
vs.
State of Maharashtra & Anr.] .. Respondents

Mr.Narayan Rokade a/w Ajinkya Taskar for the Appellants.

Mr.M.R. Tidke, APP for the State.

Mr.Amol Wagh a/w S.P. Patil i/b Ms.Chaitali Bhogle for Respondent No.2.

PSI Harsharvadhan Bahir, Yevla Taluka Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 30th October, 2023.

P.C.

1] Two cross FIRs are registered with Yeola Taluka Police Station in respect of an incident which occurred on 8.03.2023 and the present Appellants are arraigned as accused in CR No.118/2023, which is filed at the instance of one Yogesh Nana Panpatil.

2] The complainant narrate that on 08.03.2023, when one marriage procession was enroute, he participated in the same, where 8 boys, whom he named were also dancing. At that time, the present

Appellants, who belong to Maratha Caste, took him aside and he alongwith the co-accused Mangesh Shejwal, on the pretext that they belong to Scheduled Caste, questioned him as to why he is dancing in the procession.

Thereafter, both the persons left the spot and the complainant continued to dance.

Thereafter, according to the complainant, at around 10.00 to 10.30 p.m. an attempt was made to reconcile the discord and a feud occurred, and a fight broke and the present CR No.118/2023 narrates the version of the complainant. Whereas, the cross-complaint filed by the present Appellant No.1 Uddhav Shankar Shejwal i.e. CR No.112/2023 gives another version, of the same occurrence.

3] The learned counsel for the Appellants has placed before me the medico legal certificate of the Appellant No.1 Uddhav Shejwal who is accused in CR No.118/2023, which has invoked offences under Section 143, 147, 148, 149, 325, 323, 504, 506 of the IPC and under Section 3(1)(r), 3(1)(s) and 3(2)(vd) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The said certificate record the following injuries:

- Right Squamous and petrous temporal bone #
- # of Right zygomatic wing of sphenoid
- Inward Displaced fracture of right parietal bone.
- Roof and lateral wall of right orbit.
- Posterolateral wall of left maxillary sinus.

The injuries are described as grievous and dangerous to life and the cause of injury is shown as assault by a blunt and hard object.

The CR file by the present Appellants has invoked Section 307 of the IPC.

4] When the two FIRs are read together, they are apparently variants of the same incident, when the persons belonging to two distinct groups were injured. As far as the caste abuses are concerned, prima facie the intention to humiliate has not surfaced in the complaint lodged by Yogesh Panpatil and in any case even he did not take it seriously as according to him despite the allegation that he was insulted in the name of caste, he immediately participated in the procession and started dancing. This itself reflects how seriously he viewed the so called abuses in the name of caste.

5] The learned APP on instructions of the Investigating Officer state that the charge sheet is already filed in CR No.112/2023, whereas as

far as CR No.118/2023 is concerned, investigation is on the verge of completion and even the weapons alleged to have been used for commission of offence, have been recovered.

6] In the wake of above, since prima facie no offence is made out under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and as far as the other offences are concerned, since there are cross FIRs and injuries were caused to the persons belonging to both groups, I do not think that at this stage, custodial interrogation of the appellants is warranted.

Interim order dated 07.06.2023 deserve to be confirmed and it is made absolute.

Criminal Appeal is allowed as above.

[BHARATI DANGRE, J]