

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.651 OF 2023

Sheela Sunil Jagtap .. Appellant
Versus
State of Maharashtra and anr .. Respondent
...

Mr. Anshuman Asare a/w Mr. Ankur Pahade a/w Mr. Swapnil Phatangare for the appellant.
Mr. Vikrant Shinde a/w Ms. Bhavika Shinde for respondent no.2.
Mr.Y.M. Nakhwa, APP for the State.
Ms.Ashwini Patil, Assistant Police Inspector, Medha Police Station.

CORAM: BHARATI DANGRE, J.
DATED : 1st NOVEMBER, 2023

P.C:-

1 Heard the learned counsel for the parties.

As directed earlier, the counsel for the appellant has placed on record the charge framed by the Special Judge against the accused nos.1 and 2 on 21/01/2023, in Special (Atrocity) Case No. 182 of 2022.

Copy of the charge is taken on record and marked as 'X' for identification.

2 The accused no.1, Uddhav, is charged, since while persuading education with the prosecutrix, he developed proximity and, established physical relationship with her on several occasions in distinct hotels/lodges etc. He even

approached her parents and revealed to them that he intended to marry her. The charge is framed against him, as it is alleged that when the accused no.1 informed the present appellant, his mother, she is alleged to have resisted the alliance on the ground that, she belong to lower caste and in case the marriage is performed, she will not accept her in the house and thereafter, the ties were severed by the accused no.1 with the victim.

3 The charge further reveal that the victim was to marry some other person, who was unknown to accused No.1, but in order to obstruct the solemnization of the marriage, he is alleged to have visited the marriage venue and showed the videoclips of them together, on his mobiles to the bridegroom's family, as a result the marriage could not be performed.

4 The accused no.1 Uddhav is thus charged under Section 376 (2)(n), 366 r/w 34 of IPC and also Section 3(1)(w) (i)(ii), 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Along with him, the present appellant, who is his mother also face a charge under Section 3(1)(r)(s), 3(2)(va), 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5 The case of the prosecution, which could be discerned from the charge-sheet and it has now further surfaced through the charge framed against the two accused persons, and it is evident that for some reason, the relationship between the prosecutrix and the accused no.1 could not be taken further and assuming for a moment that the talks for marriage could not

fructify and the marriage did not take place because the appellant objected to the same as she made it clear to her son and the prosecutrix, that she will not permit her entry into the house. Except this allegation, against the present appellant, there is no other material, in the charge-sheet.

Pertinent to note that after the alleged utterances, the relationship between the two was severed and thereafter it is the accused no.1, who played an active role, to ensure that the marriage of the prosecutrix is not performed with the third person and hence the complaint is lodged.

6 The present appellant face a charge under Section 3(1)(r)(s), 3(2)(va) and Section 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

There is no indication in the charge-sheet that any abusive or humiliating statement was made by the appellant within 'public view' and as such sub-clause (r) and (s) of Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, cannot be attracted.

This is a specific reason why the Division Bench while admitting the appellant to protection from arrest has clearly recorded that the abuse was not within public view, and therefore, the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, may not be prima facie attracted.

In absence of any material, even at this stage, the continuation of the proceedings against the appellant would

amount to abuse of process of law and on the appellant approaching this Court by invoking Section 482 of Cr.P.C, I am of the view that continuing such proceedings would cause grave injustice to the appellant, apart from the reason that it would be a futile exercise.

7 For the reasons recorded above, the appeal is allowed by quashing and setting aside the charge framed against the appellant (accused no.2) in Special (Atrocity) Case No. 182 of 2022.

Needless to state that the above observations, shall in no way be made applicable to the accused no.1.

(SMT. BHARATI DANGRE, J.)