

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

CRIMINAL APPEAL NO. 672 OF 2022

Navnath Gunaji Gurav

...Appellant

Versus

State Of Maharashtra And Anr.

...Respondents

....

Mr. Sidheshwar Biradar a/w Mr. Yash Sonawane, Advocate for the Appellant.

Mr. Nitin Satpute a/w Ms. Shobha Budhivant, Advocate for Respondent No.2.

Ms. Pallavi N. Dabholkar, APP for the Respondent – State.

Mr. Himmatrao S., PSI, Wada Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th JULY, 2023.

P.C.:

1. The Appellant is apprehending arrest in connection with C.R. No. 26 of 2022 registered with Jawahar Police Station, District Palghar for offences under Sections 3(1)(r), 3(1)(s), 3(1)(p), 3(1)(q), 3(1)(u), 3(2), 3(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act') and Sections 384, 385, 452, 503, 504, 506(2), 154 of Indian Penal Code (for short 'IPC').

2. The case of the prosecution is as under :-

The complainant is a Regional Manager of Maharashtra State Co-operative Tribal Development Corporation Ltd., Jawhar.

He belongs to Scheduled Caste. On 3rd October, 2021 and 4th October, 2021 the complainant received calls from Parag Pashte. There was demand of Rs.5,00,000/-. He was threatened that if the demand is not satisfied, he would be exposed on YouTube channel. Parag Pashte belongs to political party. On 13th January, 2022 Parag Pashte approached the complainant and demanded money. On 14th January, 2022 the Accused went to godown. The godown keeper was threatened. The Accused made a call to complainant and informed that he had come to his godown with Navnath Gurav who is the editor of Samarthan YouTube. Accused Parag Pashte entered into godown. Navnath Gurav recorded video and displayed it on YouTube. The complainant was defamed. On 19th January, 2022 Navnath Gurav entered cabin of complainant and demanded the amount of Rs.5,00,000/-. Complainant was abused on his caste. False complaints were lodged against the complainant.

3. Learned Advocate for the Appellant submitted that the Appellant is working as a journalist for several years. He has written various articles of different issues. He has started his channels on YouTube, where he uploads public issue related videos. The First Information Report (for short 'FIR') is false. Offences are not made out. Mensrea is absent in the present case. The alleged

abuses on caste were made in the cabin of the complainant. Thus, the incident had not occurred within public view. Bar under Section 18 of the Atrocities Act is not attracted. The other offences under the Atrocities Act are also not made out against the Appellant. There is no independent person to corroborate the version of complainant. Appeal preferred by Parag Pashte is allowed by this Court vide Order dated 15th June, 2022.

4. Learned APP submitted that the investigation is in progress. However, there is no statement to corroborate the allegation about caste abuses against the complainant. The complainant belongs to Scheduled Caste. There is bar under Section 18 of the Atrocities Act to entertain the application for Anticipatory Bail.

5. Learned Advocate for Respondent No.2 strongly opposed the relief sought in this Appeal. It is submitted that the FIR contains specific allegations. The Accused are harassing the complainant. There was demand of money. The Accused had recorded the video. There were abuses on caste. There was bar to grant relief under Section 438 of Cr.PC.. Section 8 of the Atrocities Act refers to presumption as to offences. All the provisions of Atrocities Act which are invoked in the FIR are attracted in the present case. The

Appellant had made false complaints against the complainant. Section 3(p) and 3(q) are squarely application in this case. Enquiry in respect to complaints revealed that complaints were false. The Accused were trying to extort money from the complainant. Communication issued by corporation would indicate that enquiry was made into the complaints of the Accused and the allegations found to be false. Sections (1)(p), 3(1)(q), 3(v) of the Atrocities Act are applicable. In view of abuses on caste Sections 3(1)(r)(s) is applicable. The Appellant is not entitled for relief.

6. The alleged incident of caste abuses has occurred in the cabin. There is no corroboration by independent witness. The incident cannot be set to have occurred within public view. Section 3(p) relates to the act wherein the person institutes false, malicious or vexatious suit or criminal or other legal proceedings against member of Scheduled Caste or Scheduled Tribe. Section 3(1)(q) relates to the act giving any false or frivolous information to any public servant and causing such public servant to use his lawful power to the injury or annoyance of member of Scheduled Caste and Scheduled Tribe. There is no evidence to substantiate the charge under the aforesaid provision. The alleged incident of extortion is not corroborated by any evidence. The bar under

Section 18 of the Atrocities Act would not be attracted. Custodial interrogation of the Appellant is not necessary.

7. Learned Advocate for the Appellant has relied upon the decisions in the case of *Ramesh Chandra Vaishya V/s. State of Uttar Pradesh and Another*¹, *Issac Isanga Musumba And Others V/s. State of Maharashtra And Others*² and *Hitesh Verma V/s. State of Uttarakhand And Another*³.

8. Considering the aforesaid factual aspects, the relief sought in this Appeal can be granted. Section 18 of the Atrocities Act would not act impediment to grant relief under Section 438 of Cr.PC. as the offences under the under the Atrocities Act are not attracted.

ORDER

- i. Criminal Appeal No.672 of 2022 is allowed;
- ii. Order dated 29th June, 2022 passed by Additional Sessions Judge, Special Court (Atrocities Act) Thane is set aside.
- iii. In the event of arrest of the Appellant in connection with C.R. No. 26 of 2022 registered with Jawahar Police

1 2023 SCC OnLine SC 668

2 (2014) 15 SCC 357

3 (2020) 10 SCC 710

Station, District Palghar, the Appellant be released on bail on executing P. R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

iv. The Appellant shall report the Investigating Officer on 1st, 2nd and 3rd August, 2023 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called for.

v. Appeal stands disposed off.

(PRAKASH D. NAIK, J.)