

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 735 OF 2023

Vaibhav Vishwanath Adhikari

...Appellant

Versus

State Of Maharashtra And Anr.

...Respondents

....

Mr. Shantanu Phanse i/by Mr.Nilesh Navale Advocate for Appellant.

Mr. Anil S. Kamble Advocate for Respondent No.2.

Mr. Y. M. Nakhawa, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.**DATE : 7th JULY, 2023.****P.C.:-**

1. This is an Appeal under Section 14-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. (for short “SC/ST (Prevention of Atrocities) Act”). The appellant is apprehending arrest in connection with C.R. No. 105 of 2023 registered with Kinhawli Police Station for offences under Sections 504, 506 read with 34 of the Indian Penal Code and Section 3(1)(r), 3(1)(s) of the SC/ST (Prevention of Atrocities) Act.

2. First Information Report (for short “F.I.R.”) was registered on 28th May 2023 by Respondent No.2 alleging that, the complainant and the appellant are known to each other. The complainant is journalist by profession. On 28th May 2023 the complainant had been to market and thereafter, he entered the hotel along with his friend Yeshwant Ghanghav.

They were sitting in hotel and having tea. The appellant entered into hotel and sat next to him and abused him on his caste. The accused also caught collar of complainant and insulted and humiliated him.

3. The appellant preferred application for anticipatory bail before the Court of Sessions at Kalyan. The said application was rejected vide order dated 21st June 2023.

4. Learned Advocate for the appellant submitted that, the complaint is false. The Respondent No.2 is habitually filing complaints. Another FIR was lodged by him against another person vide C.R. No. 153 of 2022 on 11th April 2022 for offences under Atrocities Act. The appellant is sub-contractor in respect to the project. The friend of the complainant Yashwant Ghanghav filed complaint with Deputy Forest Officer against contractor carrying out work of dam at Veloshi Nalla. Mr. Vaibhav Ravikant Vishe is the contractor. Show cause notice was issued to him by Forest Department. Explanation was given by Mr. Vishe. Sub-contract agreement is executed between Vaibhav Vishe and appellant for carrying out construction at the said dam. Thus, complainant and Yashwant Ghanghav had grudge against appellant and falsely implicated him. There was no reason for appellant to abuse the complainant. Yashwant Ghanghav is not an independent witness. The incident had not occurred within public view.

5. Learned APP and learned Advocate for Respondent No.2 submitted that the FIR makes out the case under Atrocities Act. There is bar under

Section 18 of the Atrocities Act. Investigation is in progress. The appellant has abused complainant on caste. There were several persons present in hotel where incident had occurred.

6. Perused the investigation papers which includes the statements of witnesses. Investigation is in progress. The Investigating Officer has recorded the statement of one of the witness, who is independent having no animosity with the accused or association with the complainant. The FIR referred to caste abuses which are hurled in the hotel. The submission of learned Advocate for the appellant that, the complainant has filed complaint malafide is not supported by any material. The complainant is not concerned with the appellant being appointed as sub-contractor. Friend of complainant had submitted complaint to Forest Department regarding quality of construction against contractor. It cannot be inferred that he has knowledge that appellant is sub-contractor of contractor Mr. Vishe. The complaint does not even refer to name of Mr. Vishe or appellant. No malafides could be attributed to respondent No.2 for lodging complaint. Incident had occurred within public view. Allegations in the FIR makes out the alleged offences. In view of bar under Section 18 of the Atrocities Act, no case is made out for granting anticipatory bail to the appellant.

ORDER

Criminal Appeal No. 735 of 2023 is rejected.

(PRAKASH D. NAIK, J.)