

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

APPEAL NO. 760 OF 2023

DARSHAN
PRAKASH
PATIL

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Date: 2023.08.10
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Sunil Ankush Dhasade

..Appellant

VS.

The State of Maharashtra and Anr.

..Respondents

Ms. Sandhya A. Mailagir i/b Anil D. Joshi for the Appellant.

Ms. Megha Bajoria for Respondent No.2.

Mr. Y.M. Nakhwa, APP for the State.

PSI Himmatrao Anna Sargar, Wada Police Station, District –
Palghar.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 10, 2023

P.C. :

1. Heard learned counsel for the appellant, learned counsel for respondent No.2 - Ms. Megha Bajoria appointed by this Court and the learned APP for the State.

2. The appellant apprehending arrest in connection with C.R. No. 177 of 2023 registered with Wada Police Station, District – Palghar, for offence punishable under Sections 323 and 504 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act").

3. Learned APP and learned counsel for respondent No.2 vehemently opposed the appeal. It is submitted that from the First Information Report (FIR) it is clearly seen that the appellant has abused respondent No.2 on caste and therefore, it is submitted that the appeal may be dismissed. My attention is invited to the observation of the learned trial Court while rejecting the application for pre-arrest bail.

4. Heard.

5. The reading of the FIR which was lodged on 16/05/2023 by respondent No.2 does indicate that there are allegations about the appellant abusing respondent No.2 on caste. It is, however, pertinent to mention that the incident was video recorded which indicates that it was the complainant/respondent No.2 who had abused the appellant. Learned APP and learned counsel for respondent No.2 submitted that only the part which is convenient to the appellant was recorded and the incident prior in point of time which pertains to the abuse on caste is conveniently not recorded.

6. In this context, it is pertinent to note that in the FIR

dated 16/05/2023, the complainant/respondent No.2 has not mentioned anything about the second part of the incident which is video recorded where he is seen abusing the appellant. It is only in the supplementary statement recorded on 10/06/2023, that the respondent No.2 makes a reference to that part of the incident which is video recorded. It is also pertinent to note that none of the witnesses have stated about the second part of the incident though they are seen in the video recording. *Prima facie*, it appears that they are interested witnesses supporting the respondent No.2.

7. A further aspect which is required to be taken into consideration is that the appellant had sought information under the Right to Information Act, 2005 in respect of some works carried on by the Gram Panchayat of which the respondent No.2 is the Sarpanch. This pertains to some malpractices committed by Respondent No.2.

8. Further from the FIR, it is seen that the appellant had questioned respondent No.2 in the meeting of the Gram Sabha held on the date of registration of the FIR about the

applications which are received for employment. It is alleged that the appellant was upset about the fact that his son's application was declared ineligible. There appears to be a rivalry between the two groups.

9. Taking an overall view of the matter, in my opinion, the bar under Section 18 of the Atrocities Act will not apply in the present case. The custodial interrogation is not necessary.

10. The appeal, therefore, is allowed.

11. The interim order dated 07/07/2023 of this Court is hereby confirmed.

12. The appellant shall cooperate with the investigation.

13. I appreciate the assistance rendered by Ms. Megha Bajoria who appeared on behalf of Respondent No.2 in these proceedings.

(M. S. KARNIK, J.)