

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.768 OF 2023

Somnath Hiranman Barve	]	..	Appellant
vs.Stat			
State of Maharashtra & Anr.	]	..	Respondents

Mr.Satyavrat Joshi i/b Shivani Kondekar for the Appellant.

Mr.S.R. Agarkar, APP for the State.

Mr.Pawan Mali, appointed Advocate for Respondent No.2.

API Vijay Mali, Nashika Taluka Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 27th September, 2023.

P.C.

1] Heard the learned counsel for the Appellant, the learned appointed counsel for Respondent No.2 and the learned APP for the State.

The Appellant is incarcerated in connection with CR No.I 81/2023 registered with Nashik Taluka Police Station, which had invoked Section 307, 504, 506, 427 of the IPC and under Section 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2] The case of the prosecution that has surfaced from the charge sheet and particularly the statement of the complainant is to the effect

that on the particular day of incident, he alongwith his family had gone to Lakhampur, Nashik, and when he came back and had stopped his vehicle for refreshment, his family members continued to be seated in his Innova car, which was parked in front of a sweet mart. The Appellant was present there alongwith his tractor and a request was made to remove the tractor, so that the vehicle of the informant can pass. This is alleged to have irritated the Appellant and he hurled castiest abuses knowing well that the complainant belong to scheduled caste.

Thereafter, he created a stunt by parking his tractor by encircling the Innoca car in an attempt to cause threat to the life of the persons who were sitting in the car and an attempt was made to drive the vehicle towards the complainant, with an intention to cause injury to him.

3] The aforesaid version of the informant is corroborated by the other witnesses. The statements to that effect are particularly compiled in the charge sheet, which corroborate the version of castiest abuses having been hurled and also the attempt to run over the complainant.

The moot question that arises is whether Section 307 of the IPC is attracted since it is the version of the complainant himself that nobody has sustained any injury.

In any case, it will be better decided upon trial.

4] The Appellant being arrested on 23.03.2023, deserve his release on bail since the trial would take considerable point of time.

5] The learned APP as well as the learned counsel for the Respondent would invite my attention to the antecedents of the

Appellant which include 14 offences being registered largely under Section 392 of the IPC and one offence being registered in the year 2013 at Bhadrakali Police Station, which invoke section 307 of the IPC.

It is, thus, apparent that in the past, he, on several occasions had brushed with the law in a wrong way and had found himself to be involved in 14 offences.

6] In any case, looking to the nature of the accusations in the present CR, the antecedents are not sufficient enough to keep him incarcerated further.

I must mention a word of appreciation towards Mr. Pawan Mali appointed on behalf of the Complainant, who has assisted the Court effectively. The Maharashtra Legal Services AUTHORITY shall ensure that the legal remuneration payable to him shall be made over to him within a period of four weeks from today.

ORDER

- (a) Criminal Appeal is allowed.
- (b) Appellant Somnath Hiranman Barve shall be released on bail in connection with Special Case No.100/2023 arising out of CR No. 81/2023 registered with Nashik Taluka Police Station, Nashik, on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The appellant shall mark his appearance at the concerned Police Station on every Monday and Saturday between 10.00 a.m. to 12.00 noon, till conclusion of trial.
- (d) The Appellant shall regularly attend trial, on every date, unless exempted.
- (e) Upon release, the Appellant shall furnish his contact numbers and permanent residential addresses to the

Investigating Officer and shall keep him updated in case of change in the same.

[BHARATI DANGRE, J]