

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 963 OF 2022

Sachin Ankush More And Ors.

...Appellants

Versus

The State Of Maharashtra And Ors.

...Respondents

....

Mr. Bhagwan Mishra a/w Ms. Sarita Yadav Advocate for Appellants.

Mr. Pandit Kasar Advocate for Respondent No.3.

Mrs. Anamika Malhotra, APP for the Respondent – State.

PSI Ranjit Walake, Narpoli Police Station, Bhiwandi.

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CORAM : PRAKASH D.NAIK, J.

DATE : 14th JUNE, 2023.

P.C.:-

1. The appellants are apprehending arrest in connection with C.R. No.447 of 2022 registered with Narpoli Police Station, Thane on 16th August 2022 for offence punishable under Sections 324, 323, 354, 504, 506 read with 34 of the Indian Penal Code and Section 3(1)(g)(n)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. The appellants had preferred an application for anticipatory bail before the Court of Sessions which has been rejected vide order dated 14th September 2022.

3. The grievance of the complainant is that, the accused are harassing the family of the complainant. On 30th January 2022, there were abuses on the caste. There are repeated incidents of abuses. N.C. complaint was filed on 31st January 2022. Private complaint was filed on 15th March 2022 and the directions under Section 156(3) of Cr.PC were issued vide order dated 2nd July 2022.

4. Learned Advocate for the appellant submitted that, the FIR is false. There is inordinate delay in lodging the FIR. The incident has not occurred within public view. The version of complainant is not supported by independent witnesses. The complainant is not paying the dues of the society. Custodial interrogation of the appellants is not necessary.

5. Learned APP and learned Advocate for Respondent No.2 submitted that, the accused were involved in abusing the complainant on caste. During investigation, statement of complainant and his wife were recorded. Learned Advocate for the complainant submitted that, the complainant is ready and willing to clear the dues of the society. However, there is continuous harassment caused by the appellants to the complainant and family members. Learned APP submitted that, during the course of investigation, statements of complainant and his wife were recorded.

6. Apparently, there is delay in filing the complaint. The incident had occurred on 30th January 2022. N.C. complaint was lodged on 31st January 2022 for offences punishable under Section 323, 504, 506 of I.P.C. There

was no complaint under Atrocities Act. Thereafter, private complaint was filed. It is not clear whether any complaint was filed with police alleging offences under the Atrocities Act and on what date it was filed. Apparently, there are no independent eye witnesses to corroborate the versions of the complainant with regard to the abuses on caste. It is difficult to accept that the incident had occurred within public view. However it is expected that both the sides are required to maintain peace and harmony in the society. It appears that the appellants and the complainant are flat purchasers. Society is not yet registered. Some amount is collected towards the expenses incurred for maintaining the building. CCTV footage has been installed in the premises of building. In these circumstances, it is expected both sides should maintain restraint and also maintain cordial relations and not indulge in incidents as reflected in the FIR. Learned Advocate for the appellants submitted that, if the complainant is ready and willing to clear dues of maintenance, the committee is willing to accept the said amount and in future they would continue to accept the same.

ORDER

- (i) Criminal Appeal No.963 of 2022 is allowed.
- (ii) Order dated 14th September 2022 passed by learned Additional Sessions Judge, Thane in Anticipatory Bail Application No.3343 of 2022 is set aside.
- (iii) Interim order dated 28th September 2022 is confirmed.

- (iv) In the event of arrest of the appellants in connection with C.R. No.I-447 of 2022 registered with Narpoli Police Station, Thane City, the appellants be released on bail on furnishing PR. Bond in the sum of Rs.15,000/- each with one or more sureties in the like amount;
- (v) Appeal is disposed off.

(PRAKASH D. NAIK, J.)