

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 962 of 2022**

Nilesh Vishwanath Kate .. Appellant

Versus

The State of Maharashtra & Anr .. Respondents

...

Mr. Saiprasad Hole with Sagar Paspohe for the appellant.

Mr. Manish Mirpuri, Legal Aid Appointed Advocate for respondent no.2.

Ms. P.N. Dabholkar, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 26th APRIL 2023

P.C:-

1 The appellant being arraigned as accused no.1 in C.R.No.106/2022 was admitted interim protection by an order passed by this Court on 30/9/2022.

The interim order continued till date.

2 Heard learned counsel for the appellant, learned counsel appointed through legal aid for respondent no.2 and the learned APP for the State.

3 When the impugned FIR filed by the complainant is perused, it has alleged that the present applicant, on being questioned why he is ogling at his daughter-in-law, hurled casteist abuses. A verbal altercation took place between the complainant and the family members of the appellant no.1 and within no time,

even the complainant's wife reached on the spot and it is alleged that they were assaulted by means of a stick by the accused no.1 and even his wife was also assaulted by Accused no.4 Latika Kute.

Prima facie, reading of the FIR do not reveal that the incident is witnessed by any independent person though the complaint specifically state that the appellant is residing in the neighborhood, but the complainant is silent upon the actual location of the incident and definitely, it do not refer that it took place in public view as contemplated u/s.3(1)(r) and 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act) 1989.

4 In wake of the above, since now it is specifically informed on completion of the investigation, the charge-sheet is filed, the custodial interrogation of the applicant is not at all warranted.

Hence, the order deserve to be confirmed.

5 Before I part, I must record the appreciation of Mr.Manish Mirpuri, who was appointed by legal aid for his services, and the Legal Services shall ensure that the legal remuneration due and payable to him, shall be paid within a period of six weeks from today.

(SMT. BHARATI DANGRE, J.)