

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1129 OF 2023

Raygonda Kalagonda Patil .. Appellant
Versus
The State of Maharashtra & Anr. .. Respondents

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Mr.G.H.Keluskar for the Appellant.
Mr.Y.M.Nakhwa, A.P.P. for the State/Respondent.
Mr.Rahul Dhaygude for the Respondent No.2, through V.C.
PSI A. S. Gavali, attached to Satara City Police Station, present.

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CORAM: BHARATI DANGRE, J.
DATED : 04th NOVEMBER, 2023

P.C:-

1. The present Appeal is filed, since the Appellant apprehends his arrest in C.R.No.628 of 2023, registered with Satara City Police Station, on a complaint filed by one Pramod Tapase, belonging to the Scheduled Caste, pursuant to rejection of the application by the Special Court on 25/09/2023.

2. The subject C.R. has invoked Sections 3(1)(r) & (s), 3(2) (va) and Section 6 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, “the

Atrocities Act") and also Sections 504 and 506 read with Section 34 of the Indian Penal Code (for short, **"the IPC"**).

3. Heard the learned counsel Mr.Keluskar for the Appellant, learned A.P.P. Mr.Nakhwa for the State and the learned counsel Mr.Dhaygude for Respondent No.2

The complaint lodged by Pramod Tapase is read as it is, he narrate the incident that occurred on 07/06/2023 in the evening, when he informed that the present Appellant alongwith Alka Patil intended to meet him and he reached at X-rox shop in the nearby locality. When he made inquiry with Alka Patil about some transaction, he was asked to wait. Thereafter, when he came on the road, it is the allegation of the Complainant that when the two accused approached him, he once again took up the topic of the transaction and at that time, Alka Patil is alleged to have abused him in the name of the caste, with an intention to humiliate and insult him. Even the Appellant abused him, but there is no reference of any abuses being hurled with an intention to humiliate him, as he belongs to Scheduled Caste or any other words are used, which would amount to insult only on the ground that he is a member of Scheduled Caste. Though the learned A.P.P. has invited my attention to the statements of the two witnesses, who are the eye witnesses to the incident, the statement of one witness speaks of something more than what the Complainant states, whereas other two witnesses refer to brawl, but there is no reference to the casteist abuses.

In the wake of the position of law emerging from the decision of the Apex Court in the case of ***Prathvi Raj Chauhan Vs. Union of India & Ors.***¹, since if the F.I.R. on being read as it is, does not make out an offence under the Atrocities Act, then in that case the bar under Sections 18 and 18-A shall not come in the way of entertaining the anticipatory bail application under Section 438 of the Criminal Procedure Code. Applying the above position of law to the facts of the present case, since no offence is made out on *prima facie* reading of the complaint and when the law clearly evolves to the effect that the material which is collected subsequently is not expected to be looked into and even when the statements of the eye witnesses are looked into, *prima facie*, the accusations under the Atrocities Act are not attracted, as far as the present Appellant are concerned, in my considered opinion, he deserves protection from arrest. Hence, the following order.

: ORDER :

- (a) Appeal is allowed.
- (b) The impugned order dated 25/09/2023 passed by the Special Court in Cr.Bail Application No.705 of 2023 is quashed and set aside.
- (c) In the event of arrest in connection with C.R.No.628 of 2023 registered with Satara City Police Station, Appellant-Raygonda Kalagonda Patil shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (d) The Appellant shall report to the Investigating Officer on Thursday and Friday between 2.00 p.m. to 5.00

¹ 2020 ALL SCR (Cri) 613

p.m. for a period of two week and, thereafter, as and when called for.

(e) The Appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)