

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 411 OF 2020

Subhash Ramchandra Satav and ors .. Appellants
Versus
The State of Maharashtra and anr .. Respondents
...

Mr. Vikash Shivarkar, for the appellants.
Mr. S.R. Agarkar, APP for the State/respondent no.1.
None for respondent no.2

CORAM: BHARATI DANGRE, J.
DATED : 21st MARCH, 2023

P.C:-

1. In continuation of the order dated 14/03/2023, my attention is invited to the verification statement of an independent witness recorded before the JMFC, Pune, before issuance of process against the accused persons.

The independent witness Madhukar Vaydande, who is known to the complainant as well as the accused persons, approached the complainant for having a look at his agricultural land situated in Wagholi and he alleged that the accused persons were creating obstacle in cultivating the said land. His statement recorded on 21/01/2016, is to the effect that on one occasion, the accused had uttered castiest abuses and threatened that he shall

not be permitted to cultivate the land. Pertinent to note that the land in question jointly belongs to all the accused persons, as it is informed by the learned counsel for the appellant that the land is jointly owned by the three brothers, against whom the impugned order is passed.

2 When the verification statement of Dnyandeo i.e. the complainant is perused, he vaguely refer to an incident of 2007 when the measurement of the land was going on and allege that casteist abuses were hurled against him, and thereafter there was some settlement.

When the complaint lodged before the Magistrate under Section 156 (3) is perused, the allegation about hurling casteist abuses are vaguely referred, as there are no details given about the date, place and time when these abuses were hurled, as the complaint state that all the accused persons abused him by referring to his caste and this was with an intention to humiliate him. It is also not made out whether the casteist abuses were uttered in public view, since the complainant alleged commission of an offence under section 3(1)(10) (prior to amendment) which made an act of intentional insult or intimidation, with an intent to humiliate the member of Scheduled Caste or Scheduled Tribe in any place within 'public view'.

3 In such circumstances, on perusal of the complaint and the verification statement of the complainant and the documents on record, the JMFC Court No.6 has issued process

against the accused persons for committing offence punishable under Section 3(1)5 and 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,1989.

4 In absence of any ingredients of the offence under section 3(1)(10) being made out, as the prima facie reading of the complaint do not disclose an offence under section 3(1)(5) and 3(1)(10), in the light of the prevailing position of law to the effect that the bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, of no entitlement for Anticipatory Bail has to be raised, as no prima facie case is made out by reading of the complaint and the JMFC, Pune has clearly erred in issuing process.

On 16/10/2020, when the NBW was issued by the trial court, this court has stayed the issuance of the Non-bailable warrant and as such no steps are taken to effect the arrest of the appellants in an offence, which is registered in the year 2016.

4 In any case at this stage the custodial interrogation of the appellants is not justified and particularly when no prima facie case is made out. Hence they deserves protection of arrest by the following order:

ORDER

- (a) In the event of their arrest, the Appellant No.1 – Subhash Ramchandra Satav, Appellant No.2- Prakash Ramchandra Satav, and Appellant No.

3- Vikas Ramchandra Satav in connection with R.C.C. No. 588 of 2016 before the Judicial Magistrate First Class, Pune, shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.

- (b) The Appellants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The Appellants shall report to the Police Station as and when directed by the Investigating Officer.

(SMT. BHARATI DANGRE, J.)