

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.1266 OF 2023

Santosh Laxman Dhanke ...Appellant
VS.
The State of Maharashtra and Anr. ...Respondents

Mr. Vivekanand V. Krishnan, Advocate for the Appellant.
Mr. S.R. Agarkar, APP for the Respondent – State.
Ms. Payal Vardhan i/b. Mr. Sandeep Mishra, for the Respondent No.2.
Mr. S.S. Patil, SDPO Shahapur, Dist. Thane, Police Office is present.

CORAM : S. M. MODAK, J.

DATE : 30th NOVEMBER 2023

P. C. :-

1. Heard learned Advocate for the Appellant, learned APP for the Respondent – State and learned Advocate for the Respondent No.2.
2. FIR is outcome of an incident dated 6th January 2023 taken place at 4.00 pm. The land belongs to the first informant when he had gone on the field for some civil work, he was informed on phone by Haresh Adhikari that present Appellant has abused him on account of caste.
3. On the basis of this allegation, FIR is registered with Shahapur Police Station on 7th January 2023 under sections 447, 504, 506 of IPC and section 3(1)(f), 3(1)(g), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short SC and ST Act).

4. The Appellant contends that there is a land dispute with the first informant on account of measurement of land and the Appellant has complained to the Deputy Superintendent of Land Records on 6th December 2022. Its copy is placed on record. I have read it.

5. There are two versions:-

- (i) First informant contend that inspite of purchase of the land, the present Appellant encroached on certain portion of the land and he was questioned and then he abused the first informant. This is a an earlier incident.
- (ii) The main incident took place on 7th January 2023. The land is purchased by the first informant from Manda Santosh Dhanke who is wife of the present Appellant. The original owners were one Ramesh Palo Dhanke and Baban Palo Dhanke. There is power of attorney in favour of the Appellant. On the basis of the said power attorney land is transferred by the Appellant in the name of his wife and then sold it to the first informant.

6. On behalf of Respondent No.2 contention is raised that the provisions of Section 438 of Cr.P.C. are not applicable in view of the provisions of Section 18A of of the SC and SC Act. As against this, the counsel for appellant relies on the decision in the case of ***Javed Raza Shroff vs. State of Maharashtra and Anr.*** (Criminal Appeal No.1119 of

2022). It is true that the Division Bench has granted interim protection for the reason that the allegations are vague and after thought.

7. So, ultimately the Court has to peruse the averments in the FIR. Though the first informant has not heard abuses there are statements of the eye witnesses recorded during the investigation which suggests that the Appellant has abused the first informant on account of caste. So, the prohibition under section 18A of the SC and ST Act will come into picture. Furthermore, there is previous offence registered under section 324 of the Indian Penal Code against the Appellant. The provisions of law are very strict. So no case for interference in the order passed by the Sessions Court, Kalyan is made out.

8. Appeal is dismissed.

[S. M. MODAK, J.]