



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
CRIMINAL APPEAL NO. 265 OF 2023

Akash Jagdish Pillare Aged about 30 years, Occ. Agriculturist, R/o. Shirajgaon Korde, Tq. Chandur Railway & Amravati	}	.. Appellant
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Versus

1 The State of Maharashtra Through Police Station Officer, Police Station Chandur Railway, Dist : Amravati	}	.. Respondents
2 Sau. Dipali Rajesh Bansod, Aged 40 years, Occ : Homemaker, R/o. Shirajgaon Korde, Tq. Chandur Railway & Amravati	}	

Mr. Anil Mardikar, Senior Counsel assisted by Mr. Digvijay Singh,
 Advocate for appellant.

Mr. M. J. Khan, APP for respondent No.1 State.

Ms. Soniya Gajbhiye, Advocate (appointed) for respondent No.2.

CORAM : M. W. CHANDWANI J.

PRONOUNCED ON : 08/09/2023

ORAL JUDGMENT

Heard. **Admit.** Heard finally by the consent of the
 learned counsel appearing for the parties.

(2) The application for anticipatory bail having been

rejected by the Additional Sessions Judge, Amravati, the present appeal is filed under Section 14A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(3) Allegations of the prosecution are that on 17/03/2023 at around 5.30 p.m. when the complainant requested the contractor to put some material on the Gutter in front of her house, the dispute took place between the complainant and other co-accused. Co-accused Ashish abused the husband of the informant on the name of caste and threatened him; he also assaulted the informant with wooden stick; Jagdish has also assaulted the informant with fists and blows; whereas present appellant caught hold collar of her husband and gave fists and blows on his back. Therefore, on the complaint of informant, offences under Sections 324, 323, 294, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 came to be registered. Apprehending his arrest, the appellant had applied before the Additional Sessions Judge, Amravati by its order dated 20/03/2023. The application for anticipatory bail came to be rejected by the Additional Sessions Judge, Amravati. Against which the present appeal came to be filed.

(4) Heard Mr. Anil Mardikar, learned Senior Counsel for the appellant, as well as Mr. M. J. Khan, learned APP for respondent State. I have gone through the appeal and reply filed by the State.

(5) Mr. Mardikar, learned Senior Counsel submitted that the other co-accused have already been arrested and released on bail. According to him, the offence under Section 3(1)(s) is attributed to main accused Ashish, who has been arrested and release on bail. Role assigned to present appellant is of giving fists and blows. There was no intention to beat the complainant and her husband on the ground that they belongs to Schedule Caste or Schedule Tribe. According to him, if there is no intention to humiliate the person of Schedule Caste or Schedule Tribe, the offences under the Act not attracted the specific provision.

(6) Mr. Mardikar, learned Senior Counsel relied upon the judgments of the Hon'ble Apex Court in the cases of ***Hitesh Verma vs. State of Uttarakhand (2020) 10 SCC 710*** and ***Khuman Singh vs. State of Madhya Pradesh (2020) 18 SCC 763***.

(7) Per contra, learned APP for the State submitted that

the appellant has beaten the complainant and therefore, there is prima facie case against the appellant of having committed an offence under Section 3(2)(va) and under the provisions of IPC. However, learned APP fairly submits on instructions of Investigating Officer, that the custodial interrogation of the appellant is not necessary and also it is contended in the affidavit in reply. He submits that the I.O. is not going to arrest the appellant.

(8) In view of statement made by the learned APP apprehension of arrest of the appellant does not survive. Therefore, the application filed under Section 438 does not survive. Consequently, the appeal does not survive and accordingly, it is disposed of as infructuous.

(9) The Secretary to High Court Legal Services Authority to quantify and pay professional fees of appointed counsel, as per rules.

[M. W. CHANDWANI, J.]