



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 5 OF 2024

1. Dilip Bhagwant Parkhe
2. Nandu Popat Parkhe
3. Shekar Sharad Parkhe
4. Sudhir Rangnath Parkhe
5. Manoj Maruti Parkhe
6. Balasaheb Murlidhar Parkhe
7. Arjun Eknath Ille
8. Dipak Prakash Parkhe
9. Prakash Lakshaman Parkhe

...APPELLANTS

VERSUS

The State of Maharashtra & Another

...RESPONDENTS

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Mr. V.D. Hon, Senior Advocate i/by. Mr. A.V. Hon, Advocate for
appellants in Criminal Appeal No. 5/2024.
Mr. N.B. Patil, APP for respondent No. 1-State.
Ms. Sunita Sonawane, Advocate for respondent No. 2/informant.

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 11th MARCH, 2024

ORDER :

1. This appeal filed under section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, takes exception to the common order dated 21.12.2023, passed by learned Judge, Special Court, Kopergaon, below Exhibit-1 in Criminal Bail Application No. 489/2023.

Bhagyawant Punde

2. Respondent No. 2 lodged FIR alleging that on 04.12.2023, there was exchange of words between informant's son Vishal Kolge and Datatraya Nirmal, resident of Nirmal Pimpri village. At Saikiran Hotel said dispute was settled by Somnath Ghorpade, Ravi Nirmal, Sunil Ghorpae and Karan Kolge. At that time, Somnath Ghorpade caught collar of informant's son and abused him. One waiter from the said hotel lodged complaint with the police about the said incident. Thereafter, Vishal Kolge-informant's son made a phone call to Deepak Nirmal and abused Somnath Ghorpade in filthy language. Said talk was recorded by Deepak Nirmal and he made it viral on villagers group. On 04.06.2023, there was quarrel on account of said audio clip, but it was settled. On 06.12.2023, at about 1.00 pm, employees of village panchayat i.e. Ravindra Nirmal and Ganesh Jadhav came to the house of informant and told her that villagers have given them a message that they should leave the village with their household articles by 6.00 pm. Informant asked them to give the said message in writing. Thereafter, at about 6.30 pm, about 100 villagers including ladies came in front of informant's house. From the ladies, Latabai Nirmal and Vanita Ghorpade abused informant in the name of her caste. Vanita, Ghorpade, Shubham Ghorpade, Somnath Ghorpade entered in informant's house and

they threw their household articles. Three bags of wheat are also thrown out of the house. Stones are pelted on informant's house and shade net of goat, behind the house of informant was set on fire.

3. Heard learned Senior Advocate for appellants, learned APP for respondent No. 1-State and learned advocate for informant. Perused the record.

4. Appellants No. 1, 2, 4 to 9 belong to Scheduled Caste category and Appellant No. 3 belongs to Scheduled Tribe category. Therefore, offences under Atrocity Act are not attracted in their case. Apart from this, there are general allegations against appellants and no specific role is attributed to them.

5. Learned advocate for informant submits that since sections 147, 148 and 149 of IPC are applied in the present case, all the accused persons are responsible for the act done by each member of unlawful assembly.

6. Taking into consideration the allegations made in the FIR and the papers of investigation it appears that there are vague and general allegations against appellants. Nothing is to

recovered from them, hence, their pre-trial custodial detention is not necessary.

7. In the result, appeal is allowed by setting aside order dated 21.12.2023, passed by learned Judge, Special Court, Kopergaon, below Exhibit-1 in Criminal Bail Application No. 489/2023.

8. Interim protection granted to appellants by order dated 03.01.2024 is hereby confirmed.

9. Till filing of charge sheet, appellants shall attend the concerned police station, as and when called by investigating officer and shall co-operated in the investigation. Appellants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]