



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 CRIMINAL APPEAL NO. 319 OF 2024

- 1) Pooja Mahesh Kokate
 - 2) Ashok Sampat Kokate
 - 3) Dattatray Maruti Kokate
- ...Appellants

versus

- 1) The State of Maharashtra
 - 2) The Superintendent of Police
Latur
 - 3) Manisha Sunil Adhav
- ...Respondents

Advocate for Appellants : Mr. Sachin S. Panale
APP for Respondent Nos. 1 and 2: Mr. C.V.Bhadane
Advocate for Respondent No.3 : Mr. Abhijeet Mane

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CORAM : SHIVKUMAR DIGE, J.
DATED : 8th JULY, 2024.

PER COURT :-

1. The appellants apprehend arrest in connection with Crime No.47 of 2024 registered with Shrigonda Police Station, District – Ahmednagar for offence punishable under sections 452, 427, 323, 504, 506 of the Indian Penal Code and under sections 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is prosecution's case that on 23.01.2024 at about 3.15 p.m. when the informant and her husband were present in their house, at that time, one unknown lady entered in the house and she threw the

mirror, photographs and clothes in the helter-skelter manner. When the informant asked the said lady in respect of her whereabouts, at that time, that unknown lady assaulted the informant by fist and kick blows. Due to the shouts of the first informant, the nearby people came to rescue the informant. Two persons acquaintance of the first informant also came in the house of first informant. At that time, the said unknown lady assaulted the informant and her husband with fist and kick blows. It is alleged that the appellant Nos. 2 and 3 and unknown lady abused the informant on her caste and threatened to kill them. Thereafter, the informant lodged the offence against the appellants.

3. It is the contention of the learned counsel for the appellants that they have been falsely implicated in this case. The appellant No.1 has filed the complaint against the first informant and her husband under section 354, 323, 427, 504, 506 r.w. 34 of I.P.C. The dispute in respect of land is going between the first informant and the appellants' family. Due to that dispute the appellants have been falsely implicated in this case. Learned counsel further submitted that the alleged incident is occurred in the house of the first informant so Sections 3 (1) (r), 3 (1) (s), 3 (2) (va) of the Atrocities Act would not be applied. Considering the allegations made against the appellants, their custodial interrogation is not required. Hence, requested to

allow the appeal.

4. It is the contention of the learned APP and learned counsel for respondent No.3 that the informant has lodged the complaint against the appellants. Thereafter, the appellant No.1 has also lodged complaint against the informant. The appellants assaulted the informant. The custodial interrogation of the appellants is required. Hence he requested to reject the appeal.

5. I have heard all the learned counsel. Perused the F.I.R. and the police papers produced on record. The complaints are filed by the first informant and appellant No.1 against each other. The offences registered against the appellants are bailable except offence under Section 452 of I.P.C. and under the Atrocities Act. The alleged offence is committed in the house of first informant. Considering this fact, the custodial interrogation of the appellants is not required. Hence I pass the following order :-

ORDER

(i) The appeal is allowed.

(ii) The order dated 12.02.2024 passed by the learned Additional Sessions Judge, Shrigonda, District Ahmednagar, in criminal (Bail)

M.A. No. 130 of 2024 is quashed and set aside.

(iii) The interim anticipatory bail granted to the appellants vide order dated 02.04.2024 stands confirmed on same terms and conditions with following modification:-

(a) the appellants shall attend the concerned police station as and when required by the Investigating Officer.

6. Since Mr. Abhijeet Mane, the learned counsel is appointed to represent the cause of respondent No.3, his fees be paid as per the schedule of fees maintained by the High Court Legal Services Sub Committee, Aurangabad.

(SHIVKUMAR DIGE, J.)

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