



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

938 CRIMINAL APPEAL NO. 419 OF 2024

1. Balwant S/o Ananda Shinde.
2. Avinash S/o Balaji Shinde.
3. Santosh S/o Balaji Shinde. **... Appellants**

Versus

1. The State of Maharashtra.
2. The Superintendent of Police
Nanded, Tq. & Dist: Nanded.
3. Sahebrao S/o Shankar Kamble. **... Respondents**

...
Advocate for Appellants : Mr. Santosh C. Bhosle.
APP for Respondent/State : Ms. M. L. Sangit.
Advocate for Respondent No.3 : Mr. Shivanand Dattatray Tekwad.

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 30th August, 2024.

P.C.:

. After hearing the learned counsel for appellants, the learned APP and the learned counsel for respondent No.3, when this Court expressed disinclination to grant relief to appellant Nos.1 and 2, the learned counsel for appellants on instructions, seeks leave to withdraw the appeal of appellant Nos.1 and 2 (Balwant Ananda Shinde and Avinash Balaji Shinde).

2 Appellant No.3 (Santosh Balaji Shinde) apprehends arrest in Crime No.71 of 2024, registered at Naigaon Police Station, District Nanded, for the offences punishable under Sections 324, 323, 504 and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3 It is prosecution's case that the wife of informant is Sarpanch of village Palasgaon Takalgaon, Taluka Naigaon, District Nanded. It is alleged that on 29th August, 2023, a procession of Lok-Shahir Anna Bhau Sathe was going on and in that procession, there was dispute between the appellants and the informant. It is alleged that on 21st March, 2024, when the informant, his wife and other Grampanchayat members and officers were looking after the work of Grampanchayat, at that time, accused Nos.1 and 2 and appellant No.3 came there. It is alleged that accused No.1 abused the informant on his caste and accused No.2 assaulted the informant with handle of spade on the head of informant. It is alleged that appellant No.3 and co-accused beaten up the informant with fist and kick blows.

4 It is the contention of the learned counsel for appellants that the appellant has been falsely implicated in this case. The appellant has not abused the informant on his caste. The allegations

against the appellant are that he beaten up the informant with fist and kick blows. The appellant is a student. Considering the allegations against the appellant, his custodial interrogation is not required. Hence, he requested to allow the appeal to the extent of appellant No.3.

5 It is the contention of the learned APP alongwith the learned counsel for respondent No.3 that appellant No.3 and co-accused abused the informant on his caste at public place and in public view. Due to the assault by the co-accused, the informant has suffered grievous injuries. Appellant No.3 beaten up the informant with fist and kick blows, though he was aware that the informant belongs to scheduled caste. Considering the allegations against appellant No.3, his custodial interrogation is required. Hence, they requested to dismiss the appeal.

6 I have heard all the learned counsel. Perused the FIR, police papers produced on record and the impugned order passed by the Special Court. The allegations against appellant No.3 are that he beaten up the informant with fist and kick blows. In the FIR, it is not mentioned that appellant No.3 has abused the informant on his caste. The main allegations are against accused Nos.1 and 2. Appellant No.3 is a student. Considering these facts, his custodial interrogation

is not required and I pass the following order:-

ORDER

- I. The criminal appeal is disposed of as withdrawn to the extent of appellant Nos.1 and 2 (Balwant Ananda Shinde and Avinash Balaji Shinde).
- II. The criminal appeal is allowed to the extent of appellant No.3 (Santosh Balaji Shinde).
- III. The order dated 15th April, 2024 passed by learned Special Judge (SC ST), Biloli, District, Nanded, in Criminal Bail Application No.53 of 2024, is hereby set aside, to the extent of appellant No.3.
- IV. In the event of arrest of appellant No.3 (Santosh Balaji Shinde) in Crime No.71 of 2024, registered at Naigaon Police Station, District Nanded, for the offences punishable under Sections 324, 323, 504 and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he be released on bail on furnishing personal bond of Rs.20,000/- with surety of the like amount on following conditions:-
 - a) Appellant No.3 shall attend the concerned police station as and when required by the Investigating Officer.
 - b) Appellant No.3 shall not indulge in similar activities again.

- c) Appellant No.3 shall not pressurize the prosecution witnesses, in any manner.
- d) Appellant No.3 shall not contact the informant and prosecution witnesses.

[SHIVKUMAR DIGE, J.]

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