



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

907 CRIMINAL APPEAL NO. 467 OF 2024

1. Shaker Kabir Khan
2. Mohsin Juber Khan
3. Khanbaz Kabir Pathan
4. Salim Fayaj Khan Pathan
5. Saber Khan Juber Khan Pathan

..APPELLANTS

-VERSUS-

1. The State of Maharashtra
2. Kishor Ashok Kharat

..RESPONDENTS

...
Advocate for Appellants : Mr. D.P. Palodkar
APP for Respondent/State : Ms.R.R. Tandle
Advocate for Respondent no.2 : Mr.Pavan M. Salunke (appointed)

...
CORAM : **SHIVKUMAR DIGE, J.**

DATE : 4th July, 2024.

P.C.:

1. The appellant apprehends arrest in connection with FIR No.27 of 2024 registered with Police Station, Chikalthana, Dist. Aurangabad, for the offence punishable under sections 307, 324 147, 143, 148, 149, 323, 504, 506 of the Indian Penal Code (For short, "IPC") and section 3(i)(r), 3(i)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 135 of the Maharashtra Police Act.
2. It is prosecution's case that on 20th January, 2024, the informant Kishore Ashok Kharat and others were carrying out cleaning activities in the land bearing no.30. At about 6.30 p.m., the appellants along with

co-accused came there, abused the informant and other persons on their caste and asked the informant not to work there. Upon refusal by the informant, the appellants rushed on his person and said that, " तुम्ही महारडे कधी सुधारणार नाही. तुम्ही निच वृत्तीचे आहेत म्हणून असे पैशासाठी काम करतात ". It is alleged that the appellants and co-accused assaulted the first informant and other labourers by wooden sticks. It is alleged that the appellants and co-accused assaulted Kiran Gaikwad with intention to kill him and one of the person, who was with the appellants, knifed on the back of Kiran. It is alleged that the appellants and co-accused assaulted the informant and others with wooden stick. When the informant and others shouted loudly, they ran away.

3. It is contention of the learned counsel for the appellants that the allegations against the appellants are general in nature. No specific role is attributed to the appellants in the F.I.R. In the F.I.R., it is not mentioned that the appellants had assaulted any one. The appellants have been falsely implicated in this case. The land dispute is going on between two parties. Nature of dispute is civil nature. Custodial interrogation of the appellants is not required, hence requested to allow the appeal.

4. It is contention of the learned APP and learned counsel for respondent no.2 that in the F.I.R. name of the appellants have been mentioned and it is specifically alleged that the appellants and co-accused assaulted the first informant and other labourers working

there. They abused the informant on his caste. They assaulted one Mr.Kiran Gaikwad with an intention to kill him. There was active involvement of the appellants in the said crime. Earlier also the appellants had tried to assault other person. If the appellants are released on bail, they may threat prosecution witnesses, hence requested to reject the application.

5. I have heard all the learned counsel. Perused the F.I.R. and police papers produced on record.

6. The name of appellants are mentioned in the F.I.R., but allegations by the first informant in the F.I.R. are general in nature. He has not attributed any role to the appellants, only he has stated that the group of persons of which the appellants were part assaulted him and one Kiran Gaikwad and abused them on their caste. As no specific role is attributed to the appellants, their custodial interrogation is not required, hence I pass the following order :-

ORDER

- (i) The appeal is allowed.
- (ii) In the event of arrest of the appellants in connection with FIR No.27 of 2024 registered with Police Station, Chikalthana, Dist. Aurangabad, for the offence punishable under sections 307, 324 147, 143, 148, 149, 323, 504, 506 of the Indian Penal Code and section 3(i) (r), 3(i)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 135 of the Maharashtra

Police Act, the appellants be released on executing personal bond in the sum of Rs.15,000/- each with one surety of the like amount by each of them, on the following conditions :-

- (a) the appellants shall attend the concerned police station as and when required by the Investigating Officer
- (b) the appellants shall not enter the disputed land till recording of the evidence of first informant.
- (c) Fees of Mr.Pavan M. Salunke, learned advocate appointed to represent the cause of respondent no.2 be paid through the High Court Legal Services, Sub-Committee, Aurangabad, as per schedule and rules.

[SHIVKUMAR DIGE, J.]

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