



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

953 CRIMINAL APPEAL NO. 491 OF 2024

MANGAL UMESH DHAVALA

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Appellant : Mr. Rahul R. Karpe

APP for Respondent/State : Mr.P.K. Lakhotiya

Advocate for Respondent no.2 : Ms.Akanksha Pawar (Appointed)

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 31st July, 2024.

P.C.:

1. This appeal is preferred against the order dated 9th May, 2024 passed below Exhibit – 1 by the Additional Sessions Judge, Shrigonda in Criminal (Bail) M.A. No.283 of 2024 filed in pursuance of F.I.R. No. 0276 of 2024 registered with Karjat Police Station, Tq. Karjat, Dist.Ahmednagar, for the offences punishable under sections 435, 509, 323, 504, 506 of the Indian Penal Code (For short, "IPC") and sections 3(1)(r), 3(1)(s), 3(2)(va), 3(i)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is prosecution's case that on 5th December, 2023, informant requested the appellant to remove the electric cable wire, which is cut off and said is passing through the land of the informant, at that time, the appellant abused the informant stating that they should die by electric shock. It is alleged that the appellant beaten up the informant by fist and blows and gave slap on cheek. It is alleged that on 8th

December, 2023, again co-accused Umesh Dhavle and appellant dugged pipeline from the agricultural land of the informant. The son of informant took objection by giving application in the Grampanchayat to stop the work. Due to stopping of work, it is alleged that the appellant and her husband abused informant and her son on their caste.

3. It is contention of the learned counsel for the appellant that the appellant has been falsely implicated in this case. There is delay of five months in lodging the complaint. Due to old dispute, the name of the appellant is involved in this F.I.R. Considering the allegations against the appellant, her custodial interrogation is not required and requested to allow the appeal.

4. It is contention of the learned APP along with the learned counsel for respondent no.2 that there was no delay in lodging the F.I.R. as it was continuation of incidents. Last incident has happened on 9th April, 2024. The learned APP further submitted that the appellant abused the informant on her caste and beaten up her. Considering the allegations against the appellant, her custodial interrogation is required and requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the F.I.R. and impugned order passed by the trial Court.

6. In the F.I.R. four incidents have been mentioned. First incident is dated 5th December, 2023, in which it is mentioned that on that day the appellant abused the informant on her caste. The second incident is of

7th December, 2023, in which it is alleged that on that day co-accused abused daughter-in-law of the informant. The third incident is of 8th December, 2023, in which it is alleged that on that day, the appellant and co-accused abused and threatened the son of the informant and the fourth incident is of 9th April, 2024 in which it is mentioned that co-accused abused and threatened the grand son of the informant. The alleged incident of abuse on her caste is occurred on 5th December, 2023 and the F.I.R. is lodged on 15th April, 2024. There is around four months delay of the first incident and lodging of the F.I.R. Considering these facts, the custodial interrogation of the appellant is not required and I pass the following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 9th May, 2024 passed below Exhibit-1 by the Additional Sessions Judge, Shrigonda in Criminal (Bail) M.A. No.283 of 2024 is quashed and set aside.
- (iii) In the event of arrest of the appellant in connection with F.I.R. No. 0276 of 2024 registered with Karjat Police Station, Tq. Karjat, Dist.Ahmednagar, for the offences punishable under sections 435, 509, 323, 504, 506 of the Indian Penal Code and sections 3(1)(r), 3(1)(s), 3(2)(va), 3(i)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellant be released on executing personal bond in the sum of Rs.15,000/- with one surety of

the like amount, on the following conditions :-

- (a) the appellant shall attend the concerned police station as and when required by the Investigating Officer.
- (iv) Fees of Rs.10,000/- be paid to Ms. Akansha Pawar, the learned counsel appointed to represent the cause of respondent no.2 through the High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]

sga