



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

919 CRIMINAL APPEAL NO. 499 OF 2024

Sachin S/o Dhondibhau Khemnar & anotherAppellants

VERSUS

The State of Maharashtra & anotherRespondents

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Mr. K. N. Shermale, Advocate for Appellants.

Mrs. M. L. Sangeet, APP for the State.

Mr. Rakesh Bramhankar, Advocate (appointed) for Respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 8th OCTOBER, 2024.

PER COURT :

1. Heard.
2. Appellants apprehend arrest in connection with Crime No. 0164/2024, registered at Ghargaon Police Station, Dist. Ahmednagar, for the offences punishable under Sections 143, 147, 323, 324, 504, 506 of Indian Penal Code and under Sections 3(1)(r), 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. First informant reported incident on 28.04.2024 to the police stating that on 27.04.2024 at about 12 noon, he along with his

mother had been to the shop of Appellant Sachin. Informant asked about money due to him on account of work performed by him in his shop. Informant was told by Appellant Sachin that money is with Pradeep which was not found so. It is alleged that the Appellants and three other unknown persons have abused the informant and his mother and assaulted them. It is stated in the First Information Report that these accused persons abused and insulted them over the caste.

4. Learned counsel for the Appellants submits that there is dispute between the parties with regard to payment of money. In the light of this fact, if the First Information Report is perused then it indicates that five accused persons alleged in chorus seems to have abused the informant and his mother over caste which is not probable. It is submitted that it is a case of false implication.

5. Learned APP opposed the appeal by contending that the statements of witnesses are sufficient to indicate that the incident has occurred in a public view and as such offence under Atrocities Act is made out. She also drew attention of the court to the medical

certificate of the informant and his mother indicating causing of injuries to them.

6. Learned counsel for the informant opposed the appeal on the ground of maintainability as well as merit. It is his contention that the incident has occurred at a public place and therefore in public view. According to him, there are statements of witnesses which indicate that appellants have insulted the informant and his mother in public view and also assaulted them. This, according to him, constitutes offence under Section 3(2)(v) of the Atrocities Act.

7. No doubt, if prima facie case is made out indicating offence being committed under the Atrocities Act, the bar created by Section 18 of the Act would apply. As far as present case is concerned, as it is alleged that the incident has occurred in the presence of large number of people, it does not stand to any reason as to why statements of relatives of the informant only were recorded by the police. Apart from this, this Court finds substance in the contention of learned counsel for the Appellants that it is not possible that all the appellants in one go will abuse the informant and his mother in same words. Pertinently, there are disputes between the

parties with regard to payment of money. The incident has occurred on 27.04.2024 whereas report is lodged on the next date. Any delay in lodging of the First Information Report always creates possibility of false implication. Liberty of the Appellants was protected by order dated 29.05.2024. Though it is sought to be argued that the informant has lodged complaint to the concerned police station on 24.05.2024 with regard the the threats given by the Appellants, there is no report submitted by the Investigating Officer indicating any substance in the said allegation. Hence, appeal stands allowed in terms of the interim order.

8. Fees of the appointed counsel is quantified at Rs. 10,000/- to be paid by the High Court Legal Services Authorities, Aurangabad.

(R. M. JOSHI)
Judge

dyb