



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

918 CRIMINAL APPEAL NO. 676 OF 2024

1. Ajinkya Arun Tapre
2. Jagdish Gangadhar Tapre

..APPELLANTS

-VERSUS-

1. The State of Maharashtra
and another.

Advocate for Appellants : Mr. Kanade Angad Lala

APP for Respondent/State : Mr.S.B. Narwade

Advocate for Respondent no.2 : Mr.Karne Gautam Jaywant

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

DATE : 6th September, 2024.

P.C.:

1. This appeal is preferred against the order 2nd July, 2024 passed by the Additional Sessions Judge-1, Kandhar, Dist. Nanded in Misc. Criminal Application No.73 of 2024 filed in pursuance of the F.I.R. No.0146 of 2024 registered with Police Station, Kandhar, Dist.Nanded, for the offences punishable under sections 324, 147, 143, 149 of the Indian Penal Code (For short, "IPC") and sections 3(1)(r), 3(1)(s), 3(2)(w)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is prosecution's case that on 29th April, 2024, the procession of Dr. Babasaheb Ambedkar Jayanti was going on. When the said procession reached near the Gram Panchayat office at Rui village, at that time, it is alleged that the appellants and co-accused abused the

persons in the procession on their caste, though they were aware about their caste and pelted bricks and stones on the said procession. Due to it, the persons in the procession got injured. It is alleged that the appellants and co-accused poured water on the ladies participated in the procession and they stared at them with lustful eye.

3. It is contention of the learned counsel for the appellants that the appellants have been falsely implicated in this case. Some of the co-accused have been arrested by the Police and they have been released on regular bail. The injury certificates of the witnesses show that they have suffered simple injuries. All the allegations on the caste are in chorus. No specific allegations are made against the appellants about abusing on the caste. The learned counsel further submitted that as per the ratio laid down by the Hon'ble Apex Court in the case of ***Mukesh Kumar Saini Vs. State (Delhi Administration) 2002 All MR (Cri) Journal 41***, if there are allegations on casts in chorus, it can not be considered as specific allegations and requested to allow the appeal.

4. It is contention of the learned APP and learned counsel for respondent no.2 that the appellants and co-accused pelted stones on the persons in the procession, who had participated in Dr.Babasaheb Ambedkar Jayanti. They were aware about their caste. They injured the participants of the said procession. They poured water on the ladies participated in the said procession and stared at them with

lustful eyes. The learned APP further submitted that the appellants abused participants on their caste. Considering these facts, the custodial interrogation of the appellants is required and requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the impugned order passed by the Special Court.

6. The allegations against the appellants are that they and co-accused abused the participants in the procession of Dr. Babasaheb Ambedkar Jayanti on their caste and pelted stones towards them and got them injured. The injury certificates of the witnesses produced on record shows that they have suffered simple injuries. The allegations on caste are made in chorus. No specific allegations are made against the each appellants that they had abused on caste. As per the ratio laid down by the Hon'ble Apex Court in the case of **Mukesh Kumar Saini** (cited supra), merely calling a person by caste would not attract the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. There must be specific accusation alleged against each of the accused. Considering these facts, custodial interrogation of the appellants are not required and I pass the following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The the order 2nd July, 2024 passed by the Additional Sessions Judge-1, Kandhar, Dist. Nanded in Misc. Criminal Application No.73 of

2024 filed is quashed and set aside.

(iii) In the event of arrest of the appellants in connection with the F.I.R. No.0146 of 2024 registered with Police Station, Kandhar, Dist.Nanded, for the offences punishable under sections 324, 147, 143, 149 of the Indian Penal Code (For short, "IPC") and sections 3(1)(r), 3(1)(s), 3(2)(w)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellants be released on executing personal bond in the sum of Rs.20,000/- 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 in Rui village, Tq. Kandhar, Dist.Nanded, till filing of the charge-sheet.

[SHIVKUMAR DIGE, J.]

sga