



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 743 OF 2024

ABHISHEK @ ABHAY PINTU @ GIRI @ GIRDHAR HULE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Ms. Poonam V. Bodke Patil, Advocate for the appellant
Mrs. M. L. Sangit, APP for the respondent/State
Mr. A. E. Madne, Advocate for respondent no.2.

CORAM : R. M. JOSHI, J.

DATE : 16th OCTOBER, 2024

PER COURT :-

1. Heard.
2. First informant has reported incident occurred on 27th June, 2024 at about 2.30 to 3.00 pm. It is his contention that he along with his brother went to the spot of the incident i.e. near Jai Malhar hotel. On the issue of parking vehicle, it is alleged that the applicant has abused the informant over his caste. Thereafter, when he was taking food, applicant came to the said place along with others 6 to 7 unknown persons and assaulted him with iron rod and sticks. In the said incident informant sustained injuries. He claims to have been taken to government hospital and thereafter was brought to the Sahyadri hospital. On the next day he was admitted in Vivekanand hospital and while under treatment, the report is lodged.

3. Learned counsel for the appellant submits that this is case of false implication as the informant himself while being admitted in Sahyadri hospital has recorded history of self fall from the bike. It is her submission that the reason for causing of injuries is the accidental fall of the informant and not any assault as alleged in first information report. According to her by taking advantage of the same, first information report came to be lodged against the present appellant to falsely implicate him in this crime.

4. Learned APP and learned counsel for the informant opposed the appeal on the ground that the informant has specifically stated about he being abused over caste by the appellant. As such, according to them the offence under the Atrocities Act is made out against the appellant. Learned APP has drawn attention of the Court to the injury certificate indicating causing of injuries to the informant. So also, the certificate issued by Vivekanand hospital wherein the history of assault has been recorded. Learned counsel for the informant has raised objection with regard to the maintainability of this appeal in view of Section 18 of the Atrocities Act.

5. No doubt if *prima facie* offence is made out against a person under the Atrocities Act, the embargo under Section 18 of the Atrocities Act would attract. In the instant case, however, perusal of the

investigation papers indicate that the informant was admitted in Sahyadri hospital wherein the history is recorded of accidental fall from the motorcycle. Though now it is sought to be argued that no such history was recorded, it is pertinently the said document has come on record during the course of investigation and not produced by the appellant herein. Apart from this perusal of the statement of eye witness does not indicate that in his presence, the appellant has abused the informant over his caste or insulting him for the said reason. Having regard to the afore stated facts more particularly the history recorded by the informant while he was admitted in the hospital, this Court finds reason to accept the submissions of the learned counsel for the appellant that this could be a case of false/over implication. Apart from this *prima facie* there is no evidence to indicate that this is case of insult of informant over his caste in presence of independent person. Hence, on the face of it no offence can be said to have been made out against the appellant either under Indian Penal Code or the Atrocities Act. Since involvement of applicant in this crime is doubtful, his criminal antecedents would not be relevant. Hence, the order.

ORDER

(i) Appeal is allowed.

(ii) In the event of arrest of appellant in connection with Crime No. 139/2024, registered with Shiruranantpal Police Station, Dist. Latur for the offences punishable under

Sections 326, 324, 323, 329, 427 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2), 3(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount.

(iii) He shall not contact the witnesses directly or indirectly.

(iv) He shall not interfere with the evidence in any manner whatsoever.

(v) He is further directed to cooperate the investigating agency for further investigation.

(vi) Learned APP to communicate this order forthwith to concerned police station.

(R. M. JOSHI, J.)

ssp