



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 718 OF 2022

1. Sarubhau Ashok Shinde
[Named as Gotu Asaram Shinde in FIR]
2. Asaram Sahebrao Shinde
[Named as Asaram Rajebhau Shinde in FIR]Appellants

VERSUS

The State Of Maharashtra And OthersRespondents

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Mr. S.J. Salunke, Advocate for appellants

Mr. C.V. Bhadane, APP for State

Mr. N.S. Salunke, Advocate appointed for respondent No. 2

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WITH

CRIMINAL APPLICATION NO. 1580 OF 2023
IN APEAL/718/2022

WITH

CRIMINAL APPLICATION NO. 3369 OF 2023
IN APEAL/718/2022

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 03rd MAY, 2024

ORDER :

1. By this appeal filed under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, appellants challenge the order passed by learned Additional Sessions Judge, Majalgaon, Dist. Beed, in Criminal

Bhagyawant Punde

Bail Application No. 234/2022, thereby rejecting anticipatory bail application of appellants.

2. FIR is lodged by wife of deceased Bhagwan Shinde alleging that there was contract between her husband and co-accused Sanjay Shinde in respect of cutting of sugarcane for Gangakhed Sugar Co-operative Factory, Gangakhed and in that regard deceased Bhagwan had obtained advance amount of Rs. 2,00,000/- from him. Deceased and informant both have worked for accused. However, there were certain differences in between them on account of money and therefore, they have stopped working for accused Sanjay since prior to last two months of the alleged incident. On 10.05.2022 at about 8.00 am, co-accused Sanjay and Vijaykumar along with appellants came to the house of informant and started dispute about due amount which deceased owes to accused Sanjay. It is alleged that accused persons have slapped and given fist blows to Bhagwan and his wife. They have insisted for re-payment of due amount. However, deceased was requesting them to make proper calculation of due amount. At that time, brother of deceased namely Abhiman had intervened in the quarrel. Accused Sanjay and Vijaykumar have forcibly abducted deceased on their

motorcycle. After two days i.e. 12.05.2022 at about 8.00 am, informant received telephonic call of accused Sanjay that her husband Bhagwan committed suicide by hanging in the field of Gotu Shinde (appellant No. 1). After post-mortem of deceased, informant has filed complaint and crime is lodged against accused persons.

3. Heard learned advocate for appellants, learned APP for State and learned advocate for informant. Perused the investigation papers and charge sheet.

4. In the FIR it is alleged that on 10.05.2022 Bhagwan Shinde was abducted by four accused persons namely Sanjay Shinde, Vijaykumar Gadade, Gotu Asaram Shinde (appellant No. 1) and Asaram Rajebhau Shinde (appellant No. 2). FIR is lodged on 13.05.2022. In the FIR it is alleged that brother-in-law of informant had pacified the quarrel between accused and deceased on 10.05.2022. However, even brother-in-law of informant has not made any complaint about alleged abduction of deceased. There is nothing on record to indicate that only because deceased was belonging to a particular caste, crime is committed against him. Therefore, prima facie, offences under Atrocity Act are not attracted to the facts of the present case.

Hence, bar under section 18 would not be applicable to the present case.

5. Charge sheet in the present crime is filed on 13.12.2022. Accused Sanjay Shinde and Vijaykumar Gadade both were arrested and they are released on regular bail. Role attributed to appellants is that both appellants participated in the abduction of deceased and deceased committed suicide by hanging in the field of appellant- Sarubhau Ashok Shinde.

6. Nothing is to be recovered from appellants. Hence, their pre-trial custodial detention is not necessary in the facts of the present case. Trial is not likely to commence and conclude in near future.

7. In the result, appeal is allowed.

8. Order dated 01.08.2022, passed by learned Additional Sessions Judge, Majalgaon, Dist. Beed, in Criminal Bail Application No. 234/2022 is hereby quashed and set aside.

9. In the event of arrest of appellants- Sarubhau Ashok Shinde (Named as Gotu Asaram Shinde in FIR) and Asaram Sahebrao Shinde (Named as Asaram Rajebhau Shinde in FIR), in connection with Crime No. 73/2022 registered with Sirsala Police

Station, Dist. Beed, for offences punishable under sections 306, 323, 365 r/w 34 of Indian Penal Code and Section 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they be released on executing Personal Bond and Surety Bond of Rs. 15,000/- each with one surety each in the like amount.

10. Appellants shall not tamper the prosecution evidence.

11. High Court Legal Services, Sub Committee, Aurangabad shall pay fees of learned advocate appointed to represent respondent No. 3, as per schedule, within four weeks from today.

12. In view of disposal of Criminal Appeal No. 718/2022, Criminal Application Nos. 1580/2023 and 3369/2023 are disposed of.

[NITIN B. SURYAWANSHI, J.]