



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 1008 OF 2023

TUKARAM MAROTI CHAMBHAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Ravindra V. Gore, Advocate for Appellants
Mr. D.B. Bhange, APP for Respondent No.1/State
Mr. Subhash S. Nade, Advocate for Respondent No.2
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 29th FEBRUARY, 2024

PER COURT :

1. This appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, takes exception to the order dated 13/10/2023, passed by learned Special Judge-1, Ambad, in Criminal Bail Application No.314/2023, thereby rejecting anticipatory bail application of appellants in C.R. No.705/2023, registered with Ambad Police Station, Dist. Jalna, for offence punishable under Sections 354, 504, 506 r/w 34 of the Indian Penal Code and Sections 3(1)(w), 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Informant lodged FIR alleging that she along with her family members stays at village Tadahadgaon, Tal. Ambad, Dist. Jalna. They own and possess land in Gut No.362, admeasuring 2.5 Acre, at Tadahadgaon Shivar. They have constructed cattle shed in said land and have also made fencing around the cattle shed.

Abutting to their agricultural land, Tukaram Maroti Chambhar's agricultural land is there. Earlier also he had broken informant's fencing. On 20/09/2023 at about 05:00 p.m., when informant along with her husband went to their agricultural field on motorcycle, informant saw Tukaram breaking the pillar of fencing. When informant questioned him, Tukaram came there running and pulled informant from motorcycle by holding her hand. At that time, his son Lakhan Tukaram Chambhar rushed from front side and abused them in the name of their caste and threatened to kill them. Said incident was witnessed by Jalindar Rambhau Waghunde and cousin brother-in-law of informant Jaysingh Keshav Sonawane. Seeing both these persons appellants ran away from the spot. Appellants approached the Sessions Court after registration of crime. Their anticipatory bail application is rejected. Hence, present appeal.

3. Heard learned APP for respondent No.1/State, learned advocate for appellants and learned advocate for respondent No.2. Perused the investigation papers.

4. Learned advocate for respondent No.2 informant submits that appellants are repeatedly harassing informant and her family members since the land is allotted to them by Government. In the year 2015 also offence under Section 435 of I.P.C. is registered against appellant No.1 Tukaram Chambhar. After grant of interim protection appellant No.1 Tukaram has threatened informant

to withdraw the present case, else she will be killed. He, therefore, submits that considering the allegations made in FIR offence under Atrocities Act is clearly made out and hence, bar under Section 18 would be applicable. Hence, appeal filed by appellants is liable to be rejected.

5. Charge-sheet in present case is filed on 18/12/2023 and the case is numbered as Special Case No.1/2024. Admittedly, there is previous dispute between appellants and informant's family. Though in the FIR it is alleged that informant and her husband were insulted by taking name of their caste and abuses were given to them, the said incident has taken place on open road and only husband of informant and her cousin brother-in-law support the allegations made in FIR, whereas witness Jalindar Waghunde does not support the allegations about taking name of caste and abusing informant and her husband.

6. In view of previous disputes between informant and appellants, false implication of appellants cannot be ruled out at this stage. In that view of the matter, *prima facie*, case under Atrocities Act cannot be said to be made out and hence, bar under Section 18 would not be attracted in present case.

7. Appellants were granted interim protection and they have co-operated in the investigation. Nothing is to be recovered

from them. In view of filing of charge-sheet, pre-trial custodial detention of appellants is not necessary.

8. In the result, appeal is allowed by confirming interim protection granted to appellants by order dated 25/10/2023. Impugned dated 13/10/2023, passed by learned Special Judge-1, Ambad, in Criminal Bail Application No.314/2023, is hereby quashed and set aside.

9. Applicants shall attend concerned police station for a period of two months on every alternate day between 10:00 a.m. to 12:00 p.m. and shall co-operate in the investigation. Appellants shall not indulge in any criminal activity and/or try to influence prosecution witnesses.

(NITIN B. SURYAWANSHI, J.)