



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

CRIMINAL APPEAL NO. 1165 OF 2023

BALASAHEB W/O KAMAJI BOKARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Santosh C. Bhosle, Advocate for Appellant
Mr. N.B. Patil, APP for Respondent No.1 – State
Ms. Pooja K. Apache, Advocate for Respondent No.2 (Appointed)
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 09th FEBRUARY, 2024

PER COURT :

1. Appellants apprehend arrest in C.R. No.296/2023, registered with Purna Police Station, Parbhani, for offence punishable under Sections 324, 427, 452, 504, 506 r/w 34 of the Indian Penal Code and Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. FIR is lodged by Babarao Bhimrao Ranveer alleging that, on 28/11/2023 while he was returning home in his loading four wheeler under the bridge appellant No.1 Balasaheb Kamaji Bokare was standing with his motorcycle and was ahead of him. He requested Balasaheb to take away his vehicle so that he can pass. At that time, Balasaheb assaulted him with slaps and fists on the face, stomach and back and abused him in the name of caste. Son of Balasaheb i.e. appellant No.2 Bhaurao Bokare came there holding a cricket bat in his hand and assaulted informant on both the thighs,

back and waist. Informant, therefore, rushed to his home. Thereafter he proceeded to lodge complaint to the police station against Balasaheb Bokare and Bhaurao Bokare. At that time, on the road of village Balasaheb Bokare, his son Bhaurao Bokare and one Gangadhar Panditrao Bokare from his brotherhood obstructed them and asked them as to why they are going to police station to lodge FIR against them and abused them in the name of caste. Balasaheb pulled informant and Eknath from motorcycle due to which Eknath sustained bleeding injury on his head. Gangadhar Bokare assaulted with wooden stick on Eknath's left wrist, back and both legs. Somebody snatched golden pendent from his neck, in black thread, worn by informant. Both of them any how managed to separate themselves and rushed to their house. At that time, Balasaheb Bokare, Bhaurao Bokare, Gangadhar Bokare and Devidas Bokare illegally entered their house and abused informant's sister Ranjana in the name of caste.

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

4. After hearing learned advocate for appellants on merit, when this Court expressed disinclination to grant relief to appellant No.1 Balasabeb Kamaji Bokare and appellant No.2 Bhaurao Balasaheb Bokare, learned advocate for appellants, on instructions,

seeks permission to withdraw their appeal. Permission granted. Appeal of appellant Nos.1 and 2, is dismissed as withdrawn.

5. Perusal of investigation papers, more particularly the injury certificates of informant and Eknath, do not support the allegations made against appellant No.3 Gangadhar Bokare and appellant No.4 Devidas Bokare. There are no corresponding injuries reflected in the injury certificates which are attributed to appellants Gangadhar and Devidas. *Prima facie*, their false implication cannot be ruled out at this stage.

6. Considering the allegations made in the FIR and investigation conducted so far, custodial detention of appellant Nos.3 and 4 is not necessary. Admittedly, allegation of taking name of caste is made out against appellant No.4 Devidas, at the house of informant. So, the same is not in public view. Allegation against all the accused and more particularly against appellant No.3 Gangadhar, is that in chorus they have taken name of caste of informant, which is not believable at this stage. Therefore, bar under Section 18 would not be applicable to the facts of the present case.

7. In the result, appeal of appellant No.3 Gangadhar Bokare and appellant No.4 Devidas Bokare, is allowed.

8. In the event of arrest of appellant No.3 Gangadhar

Bokare and appellant No.4 Devidas Bokare, in connection with C.R. No.296/2023, registered with Purna Police Station, Parbhani, for offence punishable under Sections 324, 427, 452, 504, 506 r/w 34 of the Indian Penal Code and Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, appellant Nos.3 and 4 be released on executing P.B. and S.B. of Rs.15,000/- each, with one surety in the like amount.

9. Fees of learned advocate Ms. Pooja Apache, appointed to represent respondent No.2, be paid by the High Court Legal Services, Sub-Committee, Aurangabad, as per the schedule, within a period of four weeks from today.

(NITIN B. SURYAWANSHI, J.)