



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1170 OF 2023

Sahil Mohammad Shakir Sayyad

....Appellant

VERSUS

The State Of Maharashtra And Another

.....Respondents

.....

Mr. Shaikh Mazhar A. Jahagirdar, Advocate for Appellant.

Mr. A.R. Kale, APP for respondent No. 1-State.

Ms. Karishma Sarin, Advocate for respondent No. 2.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th FEBRUARY, 2024

ORDER :

1. This appeal takes exception to the order passed by learned Additional Sessions Judge, Ahmednagar, below Exhibit-3 in Special Case No. 96/2023.

2. It is the prosecution case that informant/wife of appellant lodged report stating that on 09.10.2020, she married with Appellant by way of Court marriage. On 10.01.2022, she again solemnized marriage with Appellant, as per Muslim customs and rites. She was living with her mother-in-law and father-in-law, brother-in-law. On 03.04.2022 they started living separately in Mukund Nagar in the house of one Piramat Amit Sheikh on rental basis. They stayed till 21.12.2022. On

Bhagyawant Punde

21.12.2022 at about 1.30 am in night when she was in the house, her lady friend told her on phone that her husband is troubling her by making phone calls. He was saying that she is a trash and Bihari. Thereafter, appellant called informant and threatened to kill her. She was afraid and made a phone call to police and told them that her husband may beat her. Thereafter, police came to her house and took her to police station. She lodged a complaint against husband. Thereafter, informant and her husband after discussion went to their house.

When Appellant returned home, he took out an axe to beat informant, therefore informant consumed poison. Appellant took her to Vighnharta hospital, where she was admitted from 21.12.2022 till 10.01.2023. At the time of discharge appellant told her that doctor had advised her to take rest, therefore she should go to her aunt Shobha Bhalerao at Inamgaon, Taluka- Shirur, Dist. Pune and he would come to fetch her on 01.02.2023. Thereafter, informant learnt that appellant has brought Kalpana Jadhav at their house and he was staying with her and was forcing informant that they all will stay together. Informant refused the same and went to her sister Diksha Ujagare. Prior to nine days of complaint appellant approached her, showed her sickle and told her that he will not

leave her as well as Kalpana Jadhav with whom he is residing and assaulted informant. Appellant used to come to informant's sister's house and used to subject informant to unnatural sex. He also used to say that informant, appellant and Kalpana Jadhav should have common sex. Appellant had relations with two women of his own community prior to marriage. Appellant denied to return her ornaments and clothes. He had taken hand loan of Rs. 1 Lakh from informant, but has not returned the same. Appellant was forcing her to act according to his religion. She was subjected to unnatural sex on 03.03.2023 and 05.03.2023 by giving threats of life and abused her in the name of her caste.

3. On these allegations C.R. No. 146 of 2023 was registered with Camp Police Station, Dist. Ahmednagar, for offences punishable under sections 376, 377, 504, 506 of the Indian Penal Code and under sections 3(1)(r)(s), 3(1)(w)(i)(ii) and 3(2)(v-a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. Appellant was arrested on 10.03.2023 and was in PCR till 14.03.2023. Thereafter, appellant was remanded to MCR. On completion of investigation, charge sheet is filed and case is

numbered as Special Case No. 96/2023. Appellant filed application under section 439 of Cr.P.C. at Exhibit-3, which is rejected by Sessions Court. Hence, the present appeal.

5. Heard learned advocate for appellant, learned APP for respondent-State and learned advocate for respondent No. 3. Perused the charge sheet.

6. *Prima facie* it appears from the record that appellant has subjected a women of downtrodden community to heinous act against her wish. *Prima facie*, involvement of appellant in the present crime is made out. Considering the past conduct of appellant, he is likely to tamper prosecution evidence and influence informant and other witnesses. Appellant is accused in C.R. No. 65/2022, registered with Kotwali Police Station, Ahmednagar, under sections 307, 504, 506 of IPC r/w. Section 4/25 of Arms Act, and C.R. No. 123/2020, registered with Topkhana Police Station, Ahmednagar, under sections 354, 354-A, 452, 504, 506 of IPC. Considering antecedents of appellant and seriousness of accusations levelled against him, appellant is not entitled for bail. Appeal is therefore rejected.

[NITIN B. SURYAWANSHI, J.]