

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 19 OF 2022****Rajendra Maruti Kamble****....Appellant****V/s.****Chandrakant Sonvalkar (deleted vide
Courts order dated 12.12.2022) and Ors.****....Respondents**

Mr. Prosper D Souza, Appointed Advocate, *for the Applicant.***Ms. Anuja S. Gotad**, *APP for Respondent Nos.2 to 4 State.***Mr. Prashant S. Hagare**, *for the Respondent Nos. 5 to 7.***Ravindra R. Jadhav**, *HC Murgud Police Station.*

CORAM : SANDEEP V. MARNE, J.**Date : 30 AUGUST 2024.****P.C. :**

1) This Appeal is filed under Section 14-A of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SCST Act) challenging the order dated 18 November 2021 passed by the Additional Sessions and Special Judge, Kolhapur dismissing the complaint filed by the Appellant under Section 203 of Code of Criminal Procedure Code, 1973.

2) I have heard Mr. Dsouza the learned counsel appearing for the Appellant appointed through Legal Aid Panel, Mr. Hagare the learned counsel appearing for Respondent Nos. 5 to 7 and Ms. Gotad the learned APP appearing for Respondent-State.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties and after going through the documents placed on record it appears that, the main grievance of the Appellant is with regard to alleged purchase of flat from his father by the accused in the year 2008. According to the Appellant, the flat was worth Rs.10,59,152.8/- in the year 2008, but the same was purchased by the accused from his father by paying paltry amount of consideration of Rs. 4,50,000/-. According to the Appellant the accused has cheated his father for amount of Rs. 6,29,152.8/-.

4) However, the averments in the complaint would indicate that the Appellant started raising grievances with regard to the said transaction in the year 2018 by going on hunger-strike. According to the Appellant, the police did not take cognizance of complaints made by him prior to the year 2018. This is how the Appellant filed private complaint dated 11 June 2019 before the learned Special Judge. It appears that the Investigating Officer conducted investigation by recording statements of 8 witnesses including the complainant. Mr. Dsouza would submit that the 8 witnesses shown to have been examined by the Investigating Officer are not connected with the case and that the Appellant has given list of 9 other persons whose statement ought to have been recorded and would accordingly submit that further investigations in the case are necessary. Though the complaint was silent about the exact date of execution of transaction, the investigations revealed that a sale-cum-transfer document

bearing No.4595/2008 dated 28 May 2008 was executed. The Appellant has apparently sought to raise grievances with regard to the said transaction after more than 10 long years. The dispute clearly appears to be of civil nature. The document in question has been executed in the office of Sub-Registrar and therefore, the Investigating Officer has arrived at a conclusion that the document has been voluntarily executed by complainant's father in favour of the second accused.

5) The learned Judge has recorded following reasons in his order :-

6) Mainly, it is alleged that the accused persons conspired together and cheated complainant's father as they purchased the flat for lesser amount. As per the complaint application, the flat is situated at Bhaindar, Dist. Thane. Hence, it appears that the alleged offence did not take place within the jurisdiction of this Court. Secondly, vague allegations regarding cheating of complainant's father by the accused in respect of sale transaction of flat are made. Neither the date of sale-deed nor registration number of sale-deed is mentioned. Similarly, it is vaguely alleged that the accused had conspired with the opposers of the complainant in order to kill him and are harassing the complainant and his family members, Moreover, in the verification statement complainant has made allegations only against accused No. 1. He has not stated against accused Nos. 2 to 4. Similarly, complainant's witness also just stated about sale transaction of immovable property.

7) Furthermore, the Investigation Officer during the investigation recorded statements of 8 witnesses

including the complainant. After detailed investigation, he found that agreement for sale-cum-transfer document bearing No. 4595/2008 dated 28/5/2008 has been voluntarily executed by complainant's father in favour of accused No.2 – Mandakini Sonvalkar. In respect of sale transaction, criminal case has been filed by the complainant in the Sessions Court, Thane in the year 2018. It is reported by the Investigating Officer that no offence is made out against the accused.

6) After going through the above reasons recorded by the learned Special Judge, I am unable to find any palpable error in the same so as to entertain the present Appeal. The Appeal is accordingly rejected.

[SANDEEP V. MARNE, J.]

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