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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.140 OF 2024

SAI SUBODH GHAG

..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Aarti R. Dharamsey i/b. Adv. Ashwin Bhagwat for the appellant.

Smt. Sangeeta D. Shinde, APP for the State.

Adv. Apar Raje a/w Adv. Ketan Bhagat i/b. Adv. Vaishnavi Sonawane for respondent No.2.

PSI-Atul Thorat, Bharati Vidyapeeth Police Station, Pune City.

CORAM : M. S. KARNIK, J.

DATE : APRIL 4, 2024.

P.C. :

1. Heard learned counsel for the appellant, learned APP for the State and learned counsel for respondent No.2.

2. The appellant is challenging the order dated 24.01.2024 passed by the Sessions Judge, Pune rejecting the application for pre-arrest bail. The FIR is dated 05.01.2024 bearing C.R. No.8 of 2024 of Bharati Vidyapeeth Police Station, Pune. The offences alleged are under Sections 506, 341 of the Indian Penal Code, 1860 and

under Sections 3(1)(r), 3(1)(s), 3(1)(f), 3(1)(g), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Atrocities Act" for short). The appellant is the second wife of Subodh Ghag. The complainant is the first wife of Subodh. The allegations in the FIR is that the property in question is owned jointly by the complainant and Subodh. On the date of the incident i.e. 06.11.2023, the complainant was shocked to notice the presence of the appellant in her property. It is the contention of learned counsel for the complainant that the appellant has no concern with the suit property. Though the complainant is the joint owner of the property, the appellant tried to obstruct the complainant from entering into the property. It is alleged that the appellant abused the complainant in the name of caste.

3. Learned APP opposed the appeal.

4. Learned counsel for respondent No.2 has filed an affidavit-in-reply. Learned counsel for respondent No.2 contended that the complainant has no concern with the suit property. He submits that the appellant is harassing the

complainant and obstructing her from entering into the suit property which is of her ownership. It is submitted that the accusations are serious. It is further submitted that though the part of the property was given on a long lease to TVS sundaram Motors since 2007, the appellant under her signature as a power of attorney of Subodh had registered a leave and license agreement. Subodh dispute the fact that the complainant is a joint owner of the suit property.

5. Perusal of the FIR and the materials on record indicate that there is a dispute between the appellant and the complainant over the property which the complainant claims to be of her ownership jointly with Subodh. A civil suit has been filed by Subodh against the complainant in which interim orders are passed. It is thus seen that there are property disputes between the parties.

6. Though the incident happened on 06.11.2023, the FIR was registered only on 05.01.2024. There is a delay in registering the FIR. Learned counsel for the complainant submitted that on 06.11.2023 itself the complainant had lodged a complaint with the police station. However, the FIR

came to be registered on 05.01.2024.

7. There is a delay in recording the statements of the independent witnesses. The statements are recorded on 10.01.2024. The witnesses were doing the work of painting in the house of the complainant and are known to her. There is some substance in the submission of learned counsel for the appellant that the witnesses might not be independent witnesses but interested.

8. There is a property dispute between the appellant and the complainant. The possibility in such circumstances that the allegations are exaggerated or the possibility of false implication cannot be ruled out. I am therefore inclined to confirm the interim order passed by this Court. I am further informed that the appellant has joined the investigation and co-operated. In this view of the matter, the appeal is allowed. The impugned order is quashed and set aside. In the event of arrest, the appellant – Sai Subodh Ghag shall be released on bail on her furnishing P.R. bond of Rs.10,000/- with one or more sureties in the like amount. The appellant shall attend the Investigating Officer as and

when called. These are prima facie observations shall not influence the trial Court.

9. The appeal is disposed of.

(M. S. KARNIK, J.)