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

**CRIMINAL APPEAL NO.150 OF 2024**

PURUSHOTTAM BABAN BHOIR

..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

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Adv. Aniket Nikam i/b. Adv. Amit Icham for the appellant.

Adv. Satish Muley a/w Adv. Mosin Naikh a/w Adv. Sajid Qureshi for respondent No.2.

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

PSI Dattatraya Wane, Khandeshwar Police Station.

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**CORAM : M. S. KARNIK, J.**

**DATE : APRIL 16, 2024.**

**JUDGMENT :**

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

**2.** This is an appeal for quashing and setting aside the impugned order dated 29.01.2024 passed by the Additional Sessions Judge, Panvel-Raigad in connection with C.R. No.319 of 2023 dated 03.11.2023 registered with Khandeshwar Police Station, Raigad for the offences punishable under Section 420 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(1)(u), 3(2)(va), 6 of the

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter "Atrocities Act", for short). The application for pre-arrest bail was rejected.

**3.** The FIR is dated 03.11.2023. The date of the incident is 01.11.2023. A reading of the FIR reveals that there was a property transaction between the appellant and the respondent No.2. On the previous occasion the respondent No.2 had filed proceedings against the appellant. As the matter was settled between the parties the consent terms came to be filed. According to learned counsel for respondent No.2 a sum of Rs.71 lakhs was paid by the respondent No.2 to the appellant in accordance with the consent terms. This is disputed by learned counsel for the appellant. According to the complainant, the appellant instead of executing the sale deed in his favour was keen on selling the property to a third person in breach of the consent terms. When the respondent No.2 requested the appellant to honour the consent terms, the appellant abused the respondent No.2 in the name of his caste. Execution proceedings are already filed by the respondent

No.2 before the competent Court for execution of the consent terms.

**4.** Learned APP as well as learned counsel for respondent No.2 opposed the appeal. Learned APP however submitted that the appellant has co-operated with the investigation. Learned counsel for respondent No.2 submitted that there are specific abuses in the name of caste which are mentioned in the FIR. It is further submitted that caste based abuses are made in public view and therefore, the provisions of the Atrocities Act are clearly attracted.

**5.** It is thus seen that there are property disputes between the parties. Though it is alleged that the abuses made by the appellant is in a public view, there are no independent witnesses to support the accusations. Moreover, the possibility of the allegations being exaggerated cannot be ruled out as there are property disputes between the parties. According to me the bar under Section 18 of the Atrocities Act is not attracted in present facts. I am therefore inclined to allow this appeal. Hence, the following order :-

**ORDER**

- (a) The Criminal Appeal is allowed.
- (b) The impugned order dated 29.01.2024 passed by the Additional Sessions Judge, Panvel-Raigad is quashed and set aside.
- (c) In the event of arrest of the appellant-Purushottam Baban Bhoir in connection with C.R. No.319 of 2023 registered with Khandeshwar Police Station, Raigad shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (d) The appellant shall attend the Investigating Officer of Khandeshwar Police Station as and when called and co-operate with the investigation.
- (e) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The appellant shall not tamper with evidence.
- (f) On being released on bail, the appellant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.
- (g) The appellant shall attend the trial regularly. The appellant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The appellant shall not make any attempt to intimidate or threaten the respondent No.2.

(i) If an application is made for witness protection, the same be considered in accordance with law.

**6.** The appeal is disposed of.

**(M. S. KARNIK, J.)**