



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

CRIMINAL APPEAL NO. 1177 OF 2023

Sunil Deepak Khambe ..Appellant
VS.
The State of Maharashtra and anr. ..Respondents

**ALONGWITH
CRIMINAL APPEAL NO. 265 OF 2023**

Akshay Akash Nikalje .. Appellant
VS.
The State of Maharashtra and anr. ..Respondents

**ALONG WITH
CRIMINAL APPEAL NO. 339 OF 2023**

Ramdas Narayan Talkar .. Appellant
VS.
The State of Maharashtra and anr. ..Respondents

Mr. Vasant B. Ghorpade, for the appellant in APPEAL/1177/2023.
Mr. Makarand M. Kale, for Complainant in APPEAL/1177/2023 and in APPEAL/265/2023.
Mr. Niranjan Mundargi i/b Mr. Santosh S. Musale, for the appellant in APPEAL/265/2023.
Mr. Sachin R. Pawar, for appellant in for the appellant in APPEAL/339/2023.
Ms. Ameeta Kuttikrishnan for Respondent No.2 in APPEAL/339/2023.
Ms. S. D. Shinde, APP for the State in APPEAL/1177/2023.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 14, 2024

JUDGMENT :

1. Heard learned counsel for the appellants, learned

counsel for the respondent no.2 and learned APP for the State. These appeals are decided by this common order as the appeals arise of the same C.R.

2. These are appeals for quashing and setting aside the impugned orders passed by the trial Court rejecting the anticipatory bail applications of the appellants in connection with the C.R. No. 18 of 2023 registered with the Tala police station, Dist-Raigad for the offences punishable under sections 420, 406, 409 read with 34 of the Indian Penal Code, 1860 and sections 3(1)(za)(E) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, “the Atrocities Act”).

3. The appellant- Sunil Deepak Khambe is the accused no.1. The appellant Akshay Akash Nikalje is the accused no.4. The appellant- Ramdas Narayan Talkar is the accused no.5. The complainant lodged the FIR on 11/02/2023. According to her she was staying abroad and suffering from cancer. Sometime in the year 2015, she decided to buy an agricultural land from the money she saved while working abroad. Her acquaintance- Mohan Shingre (co-accused) suggested that she should invest money in an agricultural

land belonging to one of his acquaintance. Accordingly, from time to time an amount of Rs.13,35,000/- was paid by her in favour of the power of attorney holder-co-accused Ramdas Talkar who was introduced to her by the co-accused-Mohan Shingre. It was projected to the complainant that the co-accused Ramdas Talkar is the power of attorney holder of the owner of the agricultural land. Instead of transferring the agricultural land in the name of the respondent no.2, the co-accused Mohan Shingre transferred the land in his name. The complainant therefore requested the co-accused to either return her money or transfer the land in her name. The accused did neither. The complainant was thus cheated. To resolve the issue, she approached the appellant-co-accused-Sunil Deepak Khambe who was the leader of a political party. She also approached the co-accused-appellant Akshay Akash Nikalje who promised her that he would ensure return of money to the complainant. The complainant paid the Rs.1,00,000/- to Akshay Akash Nikalje and Rs.50,000/- to some other co-accused for this purpose. However, despite these payments, neither the land was transferred in her name nor money was returned

back. Hence, the offence of cheating.

4. Learned counsel for the respondent no.2 submitted that the complainant is a cancer patient who has been cheated in the manner aforesaid. It is submitted that the complainant made RTGS payment of her hard earned money to the tune of Rs.13,35,000/- in favour of the accused. Further sum of Rs.1,50,000/- was paid to the other co-accused who promised her that the issue will be resolved by their mediation. My attention is invited to the observations of learned trial Court while rejecting the applications for anticipatory bail. Learned APP submitted that the custodial interrogation is required as the complainant belongs to scheduled caste community and considering the nature of the atrocity committed by the co-accused. It is prayed that the appeals be rejected.

5. Heard learned counsel for the parties.

6. According to the complainant, an amount of Rs.13,35,000/- for purchase of agricultural land was paid as far back as in 2015. The FIR was filed only on 11/02/2023. For such delay in registering the FIR, the explanation is that the complainant is a cancer patient and that she was

pursuing the matter through other accused for recovery or getting the land transferred in her name. Except for the money which is transferred by RTGS in favour of the co-accused- Ramdas Talkar, there is nothing on record to indicate that such payment was towards the purchase of the land. Prima facie, there is delay in registering FIR which is not sufficiently explained. In the facts and circumstances of the present case, the appeals deserve to be allowed. The bar of section 18 of the Atrocities Act will not apply in the present case. It is always open for the complainant to resort to appropriate proceedings for recovery of money or for transfer of land in her name. There are no criminal antecedents reported against the appellants. Hence, the following order :-

ORDER

- (a) The appeals are allowed.
- (b) The impugned orders passed by the trial Court are quashed and set aside.
- (c) In the event of arrest in connection with C.R.No.18 of 2023 registered with Tala police station, District- Raigad, the appellants -Sunil Deepak Khambe, Akshay Akash Nikalje, Ramdas Narayan Talkar shall be

released on bail on their furnishing P.R. bond to the extent of Rs.25,000/- each with one or more sureties of the like amount.

(d) The appellants shall report to the investigating officer of the concerned police station on 21/02/2024, 22/02/2024 and 23/02/2024 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called.

(e) The appellants shall co-operate with the investigation.

(f) The appellants shall not make any attempt to establish any contact with complainant or threaten the complainant.

(g) It is always open for the complainant or the prosecution to apply for cancellation of the bail if any of the condition is flouted by the appellants or if the complainant is threatened.

(h) It is made clear that the observations made by this Court in the course of these appeals are limited to deciding these appeals and shall not influence the trial Court while proceeding with the trial on merits.

7. The appeals are disposed of.

(M. S. KARNIK, J.)