

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

CRIMINAL APPEAL NO. 292 OF 2024

1. Gajanan Mahadev Abnave
2. Lata Gajanan Abnave
3. Sayali Gajanan Abnave
4. Komal Ravindra Abnave
5. Archana Ravindra Abnave
6. Bhavana Ravindra Abnave

**....Appellants
(Orig.Accused)**

: Versus :

1. The State of Maharashtra
(through CID, Pune vide
C.R. No.140/2024)

2. Nana Ashok Jadhav

**....Respondents
(Resp.No.2-First Informant)**

**ALONGWITH
CRIMINAL APPEAL NO. 502 OF 2024**

Dhanashri Sachin Jadhav

**....Appellant
(Orig.Accused)**

: Versus :

1. The State of Maharashtra
2. Nana Ashok Jadhav

**....Respondents
(Resp.No.2-First Informant)**

Mr. Priyal Sarda *a/w. Mr. Jaipal V. Tare, for the Appellants.*

Ms. Shilpa K. Gajare-Dhumal, *APP for Respondent No.1-State.*

Mr. Ankur Pahade, *for Respondent No.2.*

Mr. Bhaskar Madhukar Jadhav, Addl. SP, CID, Crime Branch, Pune present.

CORAM : SANDEEP V. MARNE, J.

Dated : 9 September 2024.

P.C. :

1) These Appeals are filed under the provisions of Section 14A of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging the orders dated 2 March 2024 (Cri. Bail Application No.946/2024) and 24 April 2024 (Cri.Bail Application No.2120/2024) passed by the learned Special Judge, Pune rejecting the applications filed by the Appellants for grant of pre-arrest bail under the provisions of Section 438 of the Criminal Procedure Code. Appellants are arraigned as Accused in connection with Crime No.140/2024 registered with Lonikand Police Station, Pune for the offences punishable under Sections 325, 324, 323, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code (**IPC**) and Sections 3(1)(r), 3(1)(s), 3(1)(v), 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) and Section 7 of Protection of Civil Rights Act, 1955.

2) The prosecution story in brief is that Accused, Sachin Jadhav undertook development of the plot in association with the plot owner, Smt. Lata Abnave and her husband-Gajanan Abnave. That the flats in the building are sold to persons belonging to backward category. Disputes have arisen between the residents and the builder/land owners relating to common parking, common terrace and other facilities. On 21 January 2024, a complaint was filed with the Police Station against Accused No.1-builder and land owner relating to the issue of common area. However, when the Complainant was summoned in connection with the said complaint, the police officers informed him that that the grievance was of civil nature and he was asked not to visit the Police Station again with such complaint. It is

alleged that the concerned police officer threatened the Complainant and other residents with their implication in police case if they were to visit the Police Station again.

3) On 10 February 2024, the Complainant and his elder brother, Rohidas Jadhav were called by the builder, Sachin Jadhav at his house. When the Complainant and his elder brother reached Sachin Jadhav's house, he started abusing him and threatened them. Sachin Jadhav thereafter took the Complainant and his brother to Bakori Fata, where the Complainant and his brother were assaulted. In regard to the said incident dated 10 February 2024, the Complainant and his brother approached Lonikand Police Station, when non-cognizable complaint No.245 of 2024 was registered. At that time, builder Sachin Jadhav and land owner Gajanan Abhnave had also approached the Police Station to lodge complaint against the Complainant and his brother. After some time, the Complainant and his brother were asked to go home. On the same day at 9.30 p.m. when the Complainant and his brother reached the building on two wheeler, Builder Sachin Jadhav was standing outside the gate and land owner Gajanan Abhnave and his son, Sangram were waiting inside the building. They objected to the Complainant parking his two wheeler. At that time, six women arrived at the scene and all of them assaulted the Complainant and his brother by using chappal and wooden sticks. When another elder brother of the Complainant arrived at the scene, he was also assaulted. When the Complainant and his brothers approached Lonikand Police Station, no cognizance was taken of their complaint. However, they were asked to approach Sasoon General Hospital. After securing the documents relating to the treatment availed at Sasoon General Hospital, the Complainant and his brother

approached the Police Station on 11 February 2024 when again no cognizance was taken of their complaint. On 12 February 2024, the Complainant alongwith other residents approached Lonikand Police Station when the Station incharge made them wait for three hours. They were once again asked to visit the Police Station on 13 February 2024.

4) On 13 February 2024, when the Complainant and his brother reached the Police Station to register the FIR against the accused, the police questioned the veracity of their complaint stating that if 13 unknown persons were to assault them, they wouldn't have been alive. When Complainant and his brother urged the Police to check the CCTV footage, the concerned police officer refused to do so stating that he did not have time to do so. It is alleged that the Police threatened and assaulted the Complainant, his brother and father. At this stage, the Complainant's brother Rohidas Ashok Jadhav got angry at the police and self immolated himself by using petrol from his motorcycle. When the Complainant and his father attempted to douse the fire, one constable expressed that let the deceased die. It appears that Complainant's brother was declared dead.

5) I have heard Mr. Sarda, learned counsel appearing for the Appellants, Mr. Pahade, learned counsel appearing for Respondent No.2 who is appointed by the Court through the panel of legal aid. I have also heard Ms. Gajare-Dhumal, learned counsel appearing for CID.

6) Leave granted to correct the cause-title with regard to correct description of Respondent No.7 since the

investigation is now taken over by CID, Pune. Amendment to be carried out forthwith.

7) No doubt the incident that has occurred on 13 February 2024 is extremely serious when the Complainant's brother took extreme action of self immolation on account of alleged non-cooperation by the police in taking cognizance in respect of the alleged assault committed on the Complainant and his brother on 10 February 2024. Considering the seriousness of the allegations against the police officials of Lonikand Police Station, it appears that the investigations have been transferred to State-CID. The learned APP would submit that the State-CID has taken over the investigations and is in the process of recording statements of the concerned witnesses. It appears that Accused Nos.1 and 2-Sachin Jadhav and Gajanan Abnave were arrested on 22 January 2024 and 28 March 2024 respectively. Mr. Pahade would complain that without granting opportunity of hearing to the Complainant, Accused Nos.1 and 2 are released from custody on 5 March 2024 and 15 April 2024.

8) So far as the present Appeals are concerned, all the Appellants in Appeal Nos.292/2024 are family members of Gajanan Abhnave. Though Mr. Gajanan Abhnave is Accused no.1, since he has been arrested, the Appeal qua him has already been withdrawn as per order passed by this Court on 19 March 2024. The rest of the Appellants in Appeal No.292 of 2024, as well as the Appellant in Appeal No.502 of 2024 apparently are women who allegedly assaulted the Complainant and his brother on 10 February 2024. Appellant Nos.2 to 6 in Appeal No.292 of 2024 themselves belong to Scheduled Caste category and therefore there is no question of

alleging any offence against them under the SCST Act. So far as the Appellant in Appeal No.502/2024 is concerned, she is the wife of Accused No.2-Sachin Jadhav.

9) Perusal of the entire FIR statement would indicate that the Complainant and his brother essentially had grievances against the builder-Sachin Jadhav and land owner-Gajanan Abnave. So far as the present Appellants are concerned, their role is restricted only to the alleged assault committed on 10 February 2024. There is nothing on record to indicate that the Complainant and his brother suffered any grievous injury on account of the said assault. All IPC offences alleged against the assault dated 10 February 2024 are bailable in nature. It appears that after taking over of investigations by State-CID, Section 306 and 420 of the Indian Penal Code are added. *Prima-facie*, there is nothing on record to link the acts of the present Appellants to the suicide of Complainant's brother. His act is essentially linked to the alleged conduct of the police officials of Lonikand Police Station in not taking cognizance of the complaint. Otherwise there is nothing to establish direct link between the act of alleged assault of 10 February 2024 with the suicide of the Complainant's brother.

10) Appellants are on interim protection granted by this Court on 19 March 2024. It appears that the Appellants have appeared before the State-CID which is recorded in their statements. The main Accused in the case have already been arrested and were kept in custody for some time for completion of investigation. In such circumstances, custodial interrogation of the Appellants for conduct of further investigations appears to be unnecessary, considering the limited role ascribed to them in the

FIR statement. Similarly, the bar under the provisions of Section 18 of the SCST Act is not attracted in respect of any of the Appellants in Appeal No.292 of 2024. Though such bar could have been made applicable to the Appellant in Appeal No.502/2024, there is nothing to indicate that the Appellant in that Appeal committed the act of assault with the intention of humiliating the caste of the Complainant or his brother.

11) In my view, therefore the interim protection granted in favour of the Appellants deserves to be made absolute. I accordingly proceed to pass the following order :

(i) Orders dated 2 March 2024 and 24 April 2024 passed by the learned Special Judge are set aside. Interim protection granted in favour of the Appellants by order dated 19 March 2024 and 9 May 2024 is made absolute subject to the following conditions :

(a) Appellants shall remain present before the Investigating Officer as and when summoned and shall co-operate with further conduct of investigation.

(b) Appellants shall attend each dates of hearing before the Trial Court unless exempted.

(c) Appellants shall not contact the Complainant or his family members or any other witness associated with the case nor shall tamper with the evidence.

12) With the above directions, the Appeals are **allowed and disposed of.**

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[SANDEEP V. MARNE, J.]