IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.675 OF 2024

Dinesh Devraj Shirke ….***Appellant***

V/s.

The State of Maharashtra ….***Respondent***

Mr. Amit Katarnaware *for the Appellant.*

Ms Anuja S. Gotad, *APP for the Respondent -State.*

Mr. Agarkar, APC, Bhandup Division, Mumbai alongwith Mr. Mulani, API-Pairavi Officer, present.

CORAM : SANDEEP V. MARNE, J.

Dated : 18 July 2024.

P.C. :

MEGHA SHREEDHAR PARAB
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Date: 2024.07.19 18:47:02 +0530

1) This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**), challenging order dated 9 May 2024 passed by the learned Additional Sessions Judge, Mumbai, rejecting the application filed by Appellant/Complainant at Exhibit-4 seeking conduct of free, fair, impartial and honest investigations under Section 156(3) of the Code of Criminal Procedure, 1973 through another Investigating Officer as well as seeking a direction to the investigating machinery to protect rights of the victim and witnesses from harassment by the accused by exercising powers under Section 15-A(8)(c) of the SCST Act.

2) It must be observed at the very outset that the order passed by the learned Sessions Judge appears to be slightly incomprehensible on account of the language employed therein and it required efforts to comprehend as to what is sought to be conveyed in the order. However, leaving aside the manner in which the order is couched by the learned Judge, it appears that he has not found any ground for the purpose of allowing the application filed by the Appellant/Complainant.

3) I have heard Mr. Katarnaware, the learned counsel appearing for the Appellant. His main grievance is that the accused is a money lender, who had lent amount of Rs.35,00,000/- and within a period of six months, was demanding return of exponentially high amount of Rs.75,00,000/- from the Appellant. He would therefore submit that charging of exorbitant interest @ of 30% per month clearly made out in the FIR itself. That therefore, the Investigating Officer ought to have charged the accused under the provisions of Sections 3 and 5 of the Maharashtra Money Lending (Regulation) Act, 2014 (**Money Lending Act**). That despite clear disclosure of offences under the Money Lending Act, the Investigating Officer has not conducted free and proper investigations and has deliberately assisted the accused. He would submit that the Investigating Officer has suppressed criminal history of the accused, which has enabled the accused to secure anticipatory bail in the present case. He would submit that the accused has committed similar offences in relation to other persons as well and free and fair investigations into the crime through another Investigating Officer would protect the Society at large from the criminal acts of the accused. He would submit that under the provisions of Part 3 Rule 137 of the Police Manual, it is the duty of

the Investigating Officer to dig out the truth and place true facts before the Court by collecting the necessary material evidence. That the Investigating Officer in the present case has utterly failed in performance of his duties and therefore the Sessions Court ought to have directed investigations under Section 156(3) of the Code through another Investigating Officer.

4) Ms Gotad, the learned APP appearing for the Respondent-State would oppose the appeal and support the order passed by the learned Sessions Judge.

5) Having considered the submissions canvassed by the learned counsel appearing for the respective parties and after perusal of the records of the case filed alongwith the appeal, it is seen that the FIR is essentially lodged on account of the incident, which allegedly occurred on 5 September 2023 where the accused allegedly insulted Complainant's wife and hurled caste based abuses. The FIR is also in respect of threatening the Complainant for return of the amount of loan by abusing him. *Prima facie* FIR is silent about alleged charging of exorbitant interest. In fact, in the application filed by the Appellant, there is no averment of charging of any exorbitant interest nor there is demand of any application for adding of any sections of Money Lending Act in the charge-sheet. It clearly appears that allegations of commission of any offence under the provisions of Money Lending Act are nothing but ingenuity of the learned counsel across the Bar when the said point was not even canvassed in the application filed before the learned Sessions Judge.

6) So far as the alleged antecedent of the accused are concerned, in my view, the same are irrelevant for the purpose of conduct of trial into the offences alleged against the accused in the charge-sheet. The issue of antecedents of the accused is sought to be raised by the Appellant with regard to the accused securing anticipatory bail. In my view, it unnecessary to go into the issue of effect of antecedents on anticipatory bail granted to accused as this appeal does not involve the issue of correctness of order grating anticipatory bail.

7) Considering the overall conspectus of the case, I am of the view that no case was made out by the Appellant for conduct of any further investigations or for change of the Investigating Officer. The learned Sessions Judge has rightly rejected the application. I do not find any reason to entertain the present appeal. The appeal is accordingly dismissed with no order as to costs.

8) Needless to observe that learned Sessions Judge shall not be influenced by any of the observations made in this order while deciding the case finally.

[SANDEEP V. MARNE, J.]