

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.691 OF 2024

Akshay Vijay Nigade
V/s.

...Appellant

The State of Maharashtra and Anr.

...Respondents

Mr. Ranjeet M. Pawar with Mr. Ankit R. Upadhyay for the Appellant.

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

Ms. Priyanka Chavan, appointed Advocate for Respondent No.2.
Mr. Ashok B. Raut, PSI, Baramati City Police Station, present.

CORAM : SANDEEP V. MARNE, J.

Dated : 21 October 2024.

P.C. :

1. This is an appeal filed under the provisions of Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging the order dated 1 July 2024 passed by the learned Additional Sessions Judge, Baramati, District -Pune, in connection with C.R. No.388 of 2024 registered with Baramati City Police Station, District-Pune, for the offences punishable under Sections 376, 354, 354-A, 504 and 506 r/w Section 34 of the IPC and Sections 3(1)(r)(s)(w(i)(ii), 3(2)(v) and 6 of the SCST Act.

2. I have heard Mr. Pawar, the learned counsel appearing for the Appellant, Ms. Talhar, the learned APP for Respondent-State and Ms. Chavan, the learned counsel appointed to represent Respondent No.2 from Legal Aid Panel.

3. Perusal of the FIR would indicate that the alleged act of forcible sexual relationship occurred on 7 July 2022. The Complainant did not lodge any complaint in respect of the alleged act of 7 July 2022. The FIR statement indicates that immediately after the alleged act of sexual relationship the Appellant refused to marry the Complainant. Despite this, it appears that the FIR is lodged on 25 May 2024 on the ground that on 5 May 2024 when the Complainant and her mother approached Appellant enquiring about the marriage between the couple, Appellant's father threatened them and ousted them. This is a reason the FIR is lodged against the Appellant and his father. It appears that the Appellant was issued notice under Section 41-A of the Code of Criminal Procedure, 1973.

4. Ms. Chavan would submit that alleged act of sexual intercourse is performed on false promise of marriage and the Appellant has refused to marry the Complainant only because she belongs to scheduled caste.

5. However, long delay of two years in lodging the FIR even after alleged refusal by the Appellant to marry Complainant would clearly weigh in favour of the Appellant. In my view, therefore, prima facie case of commission of offence under the provisions of the SCST Act is not made out. Therefore, bar under Section 18 of the SCST Act would not be attracted in the present case. The Appellant is already

on interim protection granted by this Court by order dated 8 July 2024. He has remained present before the Investigating Officer and has co-operated with the conduct of investigation and the charge-sheet has been filed. In that view of the matter, interim protection deserves to be made absolute.

6. I accordingly proceed to pass the following order:-

- (i) Order dated 1 July 2024 passed by the learned Additional Sessions Judge, Baramati, District-Pune is set aside.
- (ii) Interim protection granted in favour of the Appellant vide order dated 8 July 2024 is made absolute subject to following conditions:-
 - (a) Appellant shall not contact the Complainant or any other witnesses associated with the case nor shall tamper with the evidence.
 - (b) The Appellant shall attend each date before the Trial Court, unless exempted from personal appearance.

7. With the above directions, the Appeal is allowed and disposed of.

[SANDEEP V. MARNE, J.]