

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.842 OF 2024**

1. Balaso Kakaso Wagh
2. Akshay Balaso Wagh
3. Omkar Balaso Wagh
4. Parmeshwar Shankar Dere

....Appellants

V/s.

The State of Maharashtra and
Anr.

...Respondents

Mr. Kuldeep Patil *i/b Ms. Saili Dhuru with Mr. Dhavlsingh Patil for the Appellants.*

Ms. Rashmi S. Tendulkar, *APP for Respondent No.1-State.*

Ms. Shivani S. Kondekar *appointed for Respondent No.2.*

Mr. Sangale, PSI with Mr. Nilesh Pawar, H.C., Khargar Police Station are present.

CORAM : SANDEEP V. MARNE, J.

DATED : 11 November 2024.

P.C. :-

1) The Appellants have filed this Appeal under the provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging order dated 22 July 2024 passed by the learned Additional Sessions Judge, Panvel-Raigad in connection with C.R. No.199 of 2024 registered with Khargar Police Station, for the offences punishable under Sections 323, 324, 354, 452, 504 and 506 r/w 34 of the Indian Penal Code and Sections 3(1)(r)(s), 3(1)(w)(i)(ii), 3(2)(va) of the SCST Act.

2) Perusal of the FIR statement would prima facie indicate that the Complainant and her family was opposed to marriage between her sister-in-law -Prajakta and Appellant No.2-Akshay Balaso Wagh. It appears that Prajakta was repeatedly eloping with Akshay. On 10 May 2024 she eloped with Akshay and was found in his house. After Complainant and her family members brought back Prajakta from Akshay's home she again eloped on 15 June 2024 and the alleged incident has occurred when the Complainant and her family members forcibly brought back Prajakta from Akshay's house. It appears that Akshay and Prajakta are subsequently married on 17 June 2024.

3) Mr. Patil, the learned counsel appearing for the Appellants would submit that Appellant No.1, who is father of Akshay and Appellant No.3, who is brother of Akshay were supporting the marriage between Akshay and Prajakta whereas Complainant and her family members were opposing such marriage. Since Akshay and his family members were supporting the marriage and since the marriage actually took place on 17 June 2024 prima facie it is difficult to believe any caste-based utterances would have been passed by any of the Appellants on 15 June 2024 as alleged. In the initial FIR statement there are no allegations of caste-based utterances, which are subsequently added in the supplementary statement dated 22 June 2024, possibly to ensure refusal of anticipatory bail to the Appellants.

4) In my view, therefore, prima facie case of commission of offence under the provisions of the SCST Act is not made out. The Court also needs to note the changed relationship between the parties after performance of marriage between Prajakta and Akshay

on 17 June 2024. As of today, the Complainant and the Appellants are relatives since Prajakta is married to Akshay on 17 June 2024. Appellants are on interim protection granted by this Court vide order dated 12 August 2024. Considering the facts and circumstances of the present case, said interim protection deserves to be made absolute.

5) I accordingly, proceed to pass the following order:-

- (a) Order dated 22 July 2024 passed by the learned Additional Sessions Judge, Panvel-Raigad is set aside.
- (b) Interim protection granted in favour of the Appellants by order dated 12 August 2024 is made absolute.
- (c) Appellants shall remain present in the Trial Court on each date of hearing unless exempted from personal appearance.

6) With the above directions Appeal is allowed and disposed.

[SANDEEP V. MARNE, J.]