IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1325 OF 2024
IN
CRIMINAL APPEAL NO.136 OF 2021
WITH
CRIMINAL APPEAL NO.136 OF 2021

Vijay Pundlik Sapkale & Anr. ....Applicants
IN THE MATTER BETWEEN
Vijay Pundlik Sapkale & Anr. ....Appellants
V/S
Varsha Aadesh Pradhan & Ors. ....Respondents

Mr. Altaf Khan a/w Mr. Akash Mangalgi and Mr. Mohan Chavan *for the Appellants/Applicants.*
Ms. Yugandhara Khanwilkar appointed advocate *for Respondent Nos.1 to 4.*
Ms. Shilpa K. Gajare-Dhumal, APP *for Respondent No.5/State.*

CORAM: SANDEEP V. MARNE, J.
DATE : 3 SEPTEMBER 2024.

P.C.:

1 The Interim Application is filed seeking directions for video recording of the proceedings while deciding the Criminal Appeal filed by the Applicants.

2 The Application is opposed by Ms. Khanwilkar, the learned counsel appointed by the Court to represent Respondent Nos.1 to 4. She would submit that the Criminal Appeal cannot be termed as proceedings relating to offences under the Scheduled Castes and Scheduled Tribes (Prevention

of Atrocities) Act, 1989 (**SC & ST Act**) since no offence has yet been registered. Ms. Khanwilkar would therefore submit that it is only when an offence under the SC & ST Act is registered that any proceedings relating to those offences would become part of sub-section 10 of section 15A of the SC & ST Act.

3 On the contrary Mr. Altaf Khan would rely upon judgment of Division Bench of this Court in ***Dr. Hema Suresh Ahuja & Ors. vs. The State of Maharashtra & Another*** in Criminal Appeal No.911 of 2019 decided on 13 March 2024.

4 In *Dr. Hema Suresh Ahuja* (supra) the learned Single Judge of this Court had referred following four issues for determination by the Division Bench:

> "(1) Whether proceeding under 15A(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would amount to a judicial proceeding as contemplated under section 2(i) of the Code of Criminal Procedure, 1973?
>
> (2) Whether it would be necessary to video record any proceeding relating to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, especially when the proceedings are held in open court, as contemplated under section 327 of the Code of Criminal Procedure, 1973 and what would be the objective to be achieved?
>
> (3) Whether hearing of a bail application under section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is a judicial proceeding as contemplated under section 15A of the said Act?
>
> (4) Whether section 15A (10) of the said Act could be implemented in the absence of rules framed under the Act or formulation of a scheme for implementation?

5 The Division Bench has answered the issues in paragraph 34 of the judgment as follows:

> "34. In view of this discussion, the questions referred to us are answered as follows:
>
> (1) The 'proceedings' under Section 14-A(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would cover all proceedings including a 'judicial proceeding' as contemplated under section 2(i) of the Code of Criminal Procedure, 1973.
>
> (2) It would be necessary to video record any proceeding relating to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 even though the proceedings are held in open court.
>
> The object to be achieved is effective implementation of the Amended Chapter IV-A of the Atrocities Act, which is meant to protect the rights of victims and witnesses.
>
> (3) Hearing of a bail application under section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is a 'judicial proceeding' as contemplated under section 15-A of the Atrocities Act.
>
> (4) Section 15-A (10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 can be implemented in the absence of rules framed under the Act or formulation of a scheme for implementation."

6 Thus the Division Bench of this Court in *Dr. Hema Suresh Ahuja* (supra) has held that it would be necessary to video record any proceeding relating to SC & ST Act. Since the Division Bench of this Court has held that "any proceeding" relating to the SC & ST Act need to be video recorded, in my view, even a proceeding seeking registration of FIR would be covered by the expression 'any proceeding' used by Division Bench in paragraph 34(2) of the judgment in *Dr. Hema Suresh Ahuja* (supra). In that view of the matter, it would be appropriate to direct video recording hearing

of the Criminal Appeal considering the ratio laid down by Division Bench of this Court in *Dr. Hema Suresh Ahuja* (supra).

7 Interim Application is accordingly allowed. The proceeding relating to Criminal Appeal No.136 of 2021 are directed to be video recorded as provided under section 15-A(10) of the SC & ST Act.

8 With the above directions, the Interim Application is **disposed of**.

9 List the Criminal Appeal for further consideration on **25 September 2024**.

(SANDEEP V. MARNE, J.)

SUDARSHAN RAJALINGAM KATKAM
Digitally signed by SUDARSHAN RAJALINGAM KATKAM
Date: 2024.09.04 14:25:26 +0530