



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO. 247 OF 2023

APPELLANT: Shivraj s/o Wamanrao Mohad,
Aged 38 years, Occu: Social Worker,
R/o Khaitan Nagar, near Ram Mandir,
Kaulkhed, Akola, Tah. Akola,
District Akola.

...V E R S U S...

RESPONDENTS 1] The State of Maharashtra,
Through Police Station Officer,
Police Station Khadan, Akola,
Tah. Akola and District Akola.

2] Meena Devidas Chavan,
Aged 35 years, Occu. Service,
R/o Santosh Nagar, Tukaram Chowk,
Khadan, Akola, Tah. & District Akola.

WITH

CRIMINAL APPEAL NO. 338 OF 2023

APPELLANTS: 1] Gajanan Onkarrao Chaudhari,
Aged about 54 years, Occu: Service,
(Principal of Secondary School)
R/o Shraddha Nagar-3, Near Regional
Workshop, Kaulkhed Akola,
Tq. & District Akola.

2] Sau. Vijaya Ganeshrao Awatade,
Aged about 52 years, Occu: Service,
(Principal of Primary School)
R/o Near Ram Mandir, Old Khaitan Nagar,
Kaulkhed, Akola, Tq. and District Akola

...V E R S U S...

- RESPONDENTS**
- 1] State of Maharashtra,
through Police Station Officer,
Police Station Khadan, Akola. Tah. Akola
and District Akola.
 - 2] Meena Devidas Chavan,
Aged 35 years, Occu. Service,
R/o Santosh Nagar, Tukaram Chowk,
Khadan, Akola, Tah. & District Akola.

WITH
CRIMINAL APPEAL NO. 362 OF 2023

APPELLANT: Mukund s/o Anantrao Deo,
Aged about 53 years,
Occupation- Assistant Teacher,
R/o Behind Prajakta Vidyalaya,
New Khetan Nagar, Kaulkhed,
Tah. and District Akola.

...V E R S U S...

- RESPONDENTS**
- 1] State of Maharashtra,
through its Police Station Officer,
Police Station Khadan,
Tah. Akola and District Akola.
 - 2] Sau. Meena Devidas Chouhan,
Aged 36 years, Occu: Service,
R/o Santosh Nagar, Tukaram Chowk,
Akola, Tah. & District Akola.

Mr. V.R.Deshpande, counsel for appellants in Appeal Nos. 247 and
338/2023.

Mr. N.R.Tekade, counsel for appellant. [Appeal No. 362/2023]

Mr. S.A. Ashirgade, APP for respondent/State.

Ms. Soniya A. Gajbhiye, counsel for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 07/08/2024

ORAL JUDGMENT :

1. Heard.
2. Admit.
3. Heard finally with the consent of learned counsel appearing for the parties.
4. The present appeals are preferred by the appellants against the order passed by the Special Judge, Akola in Misc. Criminal Application No. 182/2023 and Criminal Application No. 212/2023, by which the application of the present appellants for grant of anticipatory bail was rejected, by order dated 01/04/2023 and 24/04/2023, in connection with Crime No. 113/2023 registered with police station, Khadan, Tahsil and District Akola for the offences punishable under Sections 504, 506 read with Section 34 of the Indian Penal Code, 1860, and Sections 3(1) (r), 3(1) (u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').
5. The appellants are permanent residents of Akola. They are apprehending the arrest at the hands of the police, as crime was registered against them. On the basis of the report lodged by

respondent No. 2, on an allegation that she is serving as a teacher and whenever she was proceeding for his school, she was abused by the present appellants by saying that nothing will happen even if she lodges a complaint against them and police are along with them and also abused her on her caste by saying “तु साली टकारीन लय माजली तुझा माज काढावा लागते”. On the basis of said report, police have registered the crime against the present appellants.

6. Heard learned counsel for appellants, Mr. V.R. Deshpande, in Criminal Appeal No. 247/2023 and Criminal Appeal No. 338/2023, he submitted that the informant is in habit of lodging the false report, as the action was taken against her by the management of the school. He invited my attention to the previous order passed by this court, wherein these facts were observed by this court. He submitted that initially the complaint was filed by the complainant on 08/10/2021, and the court has granted ad-interim anticipatory bail to them, as no complaint about abuse on caste was made out. A similar complaint is lodged by the informant, and on the basis of the same, the crime is registered. He submitted that appellants Gajanan Onkarrao Chaudhari is the Principal of Secondary School, and Vijaya Ganeshrao Awatade, who is appellant No. 2 in Criminal Appeal No. 338/2023, Shivraj

Wamanrao Mohad, i.e., appellant in Criminal Appeal No. 247/2023, is the President of the institute, and Mukund Anantrao Deo, in Criminal Appeal No. 362/2023, is the assistant teacher.

7. He submitted that the dispute has arisen out of employer and employee relations. Even on the face of the contents of the FIR, it can be seen that to maintain discipline in the school, some notices were issued and disciplinary action was proposed against the complainant, which resulted into the filing of the FIR in question.

8. He further submitted that even accepting the version of the complainant, no offence is made out, as the offence is not within public view. He submitted that the contention of the complainant itself is that the appellants have murmured about her caste, so no offence is made out, as the alleged abuses are not within the public view. He further submitted that even accepting the allegation as it is, mere reference of the caste is not sufficient to charge the present appellants under the provisions of the Atrocities Act. He submitted that during the investigation, the statements of the independent witness were recorded. From which, it reveals that no such incident has taken place. Merely because some action was taken by the institute, the frivolous

allegations are made against the present appellants. As far as the custodial interrogation is concerned, which is not required, he further submitted that the bar under Section 18-A is also not attracted, as no prima-facie case is made out against the present appellants.

9. Learned counsel Mr. N.R.Tekade appearing for Appeal No. 362/2023, endorsed the same contention and submitted that, as far as the appellant in Criminal Appeal No. 362/2023 is concerned, vague allegations are made against him, as no prima facie case is made out therefore, the bar under Section 18-A is not attracted.

10. Per contra, learned APP strongly opposed the said application on the ground that there is a bar under Section 18-A of the Atrocities Act, and the statement of the informant as well as the statement of the witnesses are sufficient to attract the provisions of the Atrocities Act against the present appellants. In view of the bar, the appeals deserve to be dismissed.

11. Learned counsel for the informant also endorsed the same contention and submitted that the various statements of the witnesses sufficiently show that the informant was abused, insulted, and humiliated within the public view, and therefore,

the appeal is devoid of merits and liable to be dismissed.

12. To consider the rival contentions of the parties, perused the investigation papers and also the contents of the FIR. From the FIR, it can be seen that, initially, the crime was registered against the present appellants, and the appellants were protected by this Court. It further appears that the appellant was asked by the President of the Management to leave the meeting by giving the reason that she was continuously absent from the School for one year. Thereafter, again on the same grounds, the President of the Management refused to meet the complainant and her father. Thereafter, she was not allowed to attend the school work without tendering apology letter. There is an allegation that she was abused by the present appellants by saying “तु साली टकारीन लय माजली तुझा माज काढावा लागते”.

13. On the basis of the above-referred incidents, the informed alleged that she belongs to Scheduled Tribe, and she was insulted and humiliated within the public view by the present appellants, who are the President and Principals of Secondary as well as Primary School Management.

14. The above-referred instances quoted in the FIR prima-facie demonstrate that the action was taken by the management to

maintain the discipline in the school, and the informant, who was continuously absent, and therefore, some notices were issued to her to proceed with the action by issuing charge-sheet. As disciplinary action was taken against the present informant, it appears that this report came to be filed. The statements are recorded by the investigating agency, which shows that no such incident has taken place. Thus, there is ground to observe that, as the action was taken, this FIR came to be lodged against the present appellants. Even accepting the allegations as it is, it appears that there is a reference of the caste. Now it is well settled that mere reference of the caste is not sufficient to attract the provisions of the Atrocities Act. As far as the bar under Section 18-A is concerned, now it is well settled that if the prima-facie case is not made out, the anticipatory bail is maintainable.

15. In the above referred backdrop and considering the reason behind the said report, is the disciplinary action. The said action is to be taken to maintain the discipline by employees and in the school. A prima-facie case is made out to release the present appellants on anticipatory bail. In view of that, I proceed to pass the following order;

a] The appeal is allowed.

- b] The order dated 01/04/2023 and 24/04/2023 passed by the learned Special Judge, Akola in Misc. Criminal Application No. 182/2023 and Criminal Application No. 212/2023 are hereby quashed and set aside.
- c] In the event of their arrest, the appellants in **Criminal Appeal No. 338/2023** namely (1) Gajanan Onkarrao Chaudhari (2) Sau. Vijaya Ganeshrao Awatade; in **Criminal Appeal No. 362/2023** - Mukund s/o Anantrao Deo and **Criminal Appeal No. 247/2023** – Shivraj s/o Wamanrao Mohad, shall be released on bail, in connection with Crime No.113/2023 registered with Police Station Khadan, Tah. & District Akola for the offences punishable under Sections 3(1)(r), 3(1)(u) of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Sections 504, 506 read with Section 34 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.
- d] The appellants shall attend the concerned Police

Station as and when required for the investigation purpose and shall cooperate with the investigating agency.

- e] The appellants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal appeals are **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]