



contended that when the prosecutrix realizes that appellant No.1 is married and she started troubling him and his family members. He further submits that all the offences in which FIR is registered, is punishable upto five years and sending any offending message on WhatsApp would not breach the threshold of the offence under Section 3 of the SC/ST Act as same cannot be construed to have taken place within the public view.

Notice of motion.

Mr. Virat Rana, Advocate puts in appearance on behalf of respondent No.2 and files his power of attorney which is taken on record and opposes the prayer made by learned counsel for the appellants on the ground that he has represented the prosecutrix before the learned Additional Sessions Judge at the time of passing of the impugned order and on this account, the appellant No.1 had been threatening the prosecutrix that he will harm her Lawyer.

The learned State counsel on receipt of advance notice appears and submits that the veracity of the allegations made by the counsel representing the prosecutrix, would be looked into and an appropriate action would be taken in case these allegations are found to be true.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the appellants are directed to appear before the Investigating Officer within two weeks from today and on their doing so or in the event of arrest, the appellants shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The appellants shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the appellants to join the investigation, the appellants would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the



appellants in investigation, in terms of the order of this Court.

Adjourned to 27.08.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.”

3. Learned State counsel, on instructions from ASI Gulshan Kumar, submits that in compliance of order dated 29.07.2024, passed by this Court, the appellants have joined the investigation and are not required for further custodial interrogation.

4. Keeping in view the statement made by learned State Counsel the order dated 05.02.2024, is made absolute. The appellants shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.

5. The appeal is accordingly allowed.

6. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

August 27, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No