



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 373 OF 2024

Somnath Suryabhan Ghorpade

.. Appellant

Versus

The State Of Maharashtra And Others

.. Respondents

**WITH
CRIMINAL APPEAL NO. 374 OF 2024**

1. Latabai Balasaheb Nirmal

2. Vanita Somnath Ghorpade

.. Appellants

Versus

The State Of Maharashtra And Others

.. Respondents

Mr. S. S. Chapalgaonkar, Advocate for the Appellants in both the appeals.

Smt. M. N. Ghanekar, APP for Respondent Nos. 1 and 2 in both the appeals.

Smt. S. G. Sonawane, Advocate for Respondent No. 3 in both the appeals.

CORAM : KISHORE C. SANT, J.

DATE : 12th AUGUST, 2025.

PER COURT :-

. Heard the parties.

2. Both the appeals are arising out of the same incident and same crime. Therefore, the appeals are taken up together.

3. Respondent No. 3 lodge information with Police Station Loni, District Ahmednagar on 07.12.2023 for the offences punishable under Sections 143, 144, 147, 148, 149, 323, 427, 352, 435, 448, 504, 506 of the I.P.C. and Sections 3(1)(r), 3(1)(s) and 3(1)(z) of the S.C. And S.T. (Prevention of Atrocities) Act. It is alleged that, on 04.12.2023 an incident took place where son of the informant was assaulted by the present appellant Somnath. It is thereafter on 06.12.2023 some of the villagers came in front of house of the informant. It is alleged that, these appellants along with others abused the informant in the name of caste. After that, they vandalized the house of the informant and of her co-sister. The allegations are made against 68 persons. In the FIR later on other accused were also added. Thus, total 71 persons are now implicated. As of now there are 64 accused persons who are either released on regular bail or have been granted protection of bail in the event of their arrest. Before this Court presently there are three appellants.

4. The learned advocate Mr. Chapalgaonkar for the appellants vehemently argued that, there are allegations against 68 accused persons. No specific role is attributed to any of the accused

specifically. There was tension in the village because of the incident. The informant, therefore, lodged the offence practically against all the persons in the village. Accused Vanita and Latabai have not done anything. It is only because Vanita's husband and Latabai's husband are also accused, these two appellants are also made accused persons. So far as role of Vanita and Latabai is concerned, he submits that, though there is allegation of abuses in the name of caste, it is not stated as to exactly which of these two appellants have abused in the name of caste. The allegation is about vandalizing the home. There also no specific allegation is made. He submits that, other 64 person are now granted regular bail or anticipatory bail, no purpose would be served by taking these appellants in custody. The offence is of December 2023. There is no incident reported thereafter. He thus prays for allowing the appeals.

5. The learned A.P.P. submits that, in the FIR there are specific allegations. The spot panchanama would show that the house was vandalized of the informant and also of her co-sister. The situation was such tensed for one month. The Police protection was required in the village because of the communal violence. She

submits that, there are 13 statements including 3 statements of Police persons recorded under Section 164 of the Code of Criminal Procedure (for short “Cr.P.C.”). Out of 13 statements under Section 164 of the Cr.P.C. in three statements name of Somnath is mentioned. There are also nine statements recorded under Section 161 of the Cr.P.C. Out of these nine statements, three statements are of Police persons. In those statements the name of Somnath is mentioned. She fairly submits that, in none of the statements under Section 164 of the Cr.P.C. role of Vanita and Latabai is mentioned. However, she submits that, looking to the allegations even under Section 3(1)(z) of the Atrocities Act, this is not a fit case not to grant protection to any of the appellants.

6. The learned advocate Smt. Sonwane for respondent No. 3 vehemently opposes the appeals. She submits that, looking to the gravity of the offence now the informant is under tension. The accused Somnath is the main culprit behind all the incident. The incident started with Somnath assaulting son of the informant namely Vishal on 04.12.2023. She thus submits that, accused Somnath does not deserve any protection. So far as accused Vanita and Latabai are concerned, she submits that, they are the

members of the family. They have also taken active part in the second incident dated 06.12.2023. She thus submits that, both the appeals deserve to be dismissed.

7. This Court has gone through the submissions and Police papers. It is seen that, in the spot panchanama the contents corroborate with the FIR and the statements under Sections 161 and 164 of the Cr.P.C. The role of accused Somnath is seen at various places as rightly submitted. His name appears even in the statements under Section 164 of the Cr.P.C. and statements recorded by the Police. So far as accused Vanita and Latabai are concerned, except FIR their names do not appear in statements under Section 161 of the Cr.P.C. In the statement recorded under Section 164 of the Cr.P.C. of the informant, even she has not stated about the role of Vanita and Latabai. Their names in the FIR thus appear to be doubtful. The possibility of false implication cannot be ruled out. There are photographs showing the position of the spot, however, that would not help the prosecution at this stage to show the role of Vanita and Latabai.

8. There is one more allegation against Somnath that he kicked 12 years grand daughter of the informant. There is certificate

issued by the Medical Officer of Rural Hospital, Loni. Though no external injury is seen, however, the allegation shows that she was kicked by the accused Somnath. This Court thus finds that, though there are no strong circumstances against accused Vanita and Latabai, so far as accused Somnath is concerned, the allegations and the material clearly show his involvement in the incident.

9. So far as order passed by the learned Trial Court in respect of the accused Somnath is concerned, this Court does not find any reason to interfere with the order. So far as accused Vanita Latabai are concerned, the learned Additional Sessions Judge has mainly considered the contents of the FIR. It appears that the learned Court has only looked into the FIR and has not considered the statements under Section 164 of the Cr.P.C. and has passed the order which call for interference. This Court is, therefore, inclined to allow the appeal of accused Vanita and Latabai. So far as appeal of accused Somnath is concerned, this Court is not inclined to allow the appeal. Hence, the following order :

ORDER

(I) Criminal Appeal No. 373/2024 is dismissed.

(II) Criminal Appeal No. 374/2024 is allowed. The appellants be released on bail in the event of their arrest in connection with Crime No. 0736/2023 registered with Loni Police Station for the offences punishable under Sections 143, 144, 147, 148, 149, 323, 427, 352, 435, 448, 504, 506 of the I.P.C. and Sections 3(1)(r), 3(1)(s) and 3(1)(z) of the Atrocities Act on furnishing P.R. bond in the sum of Rs. 25,000/- each with one solvent surety in the like amount on following conditions :

(a) The appellants shall not try to contact any of the witnesses and shall not try to pressurize them. They shall co-operate in the investigation. They shall remain present as and when called by the investigating officer.

(b) The appellants shall give their residential address, mobile number and other contact details with concerned I.O./Police Station.

(III) With this, both the criminal appeals stand disposed of.

(KISHORE C. SANT, J.)

PS.B.