



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

CRIMINAL APPEAL NO. 348 OF 2025

Parmeshwar Laxman Pawar And Another .. Appellants

Versus

The State Of Maharashtra And Others .. Respondents

Mr. Angad L. Kanade, Advocate for the Appellants.
Smt. A. S. Deshmukh, APP for Respondent Nos. 1 and 2.
Mr. M. P. Gandle, Advocate for Respondent No. 3.

CORAM : KISHORE C. SANT, J.

DATE : 25th JULY, 2025.

PER COURT :-

. At the outset, learned advocate for the appellants seeks leave to withdraw the appeal to the extent of appellant No. 2.

2. Leave granted.

3. Heard the parties.

4. The learned advocate for the appellant submits that, in the FIR, there is no allegation that the present appellant abused informant in the name of caste. The allegation is only that, he gave slap to the informant asking as to why he is playing the song

of Dr. Babasaheb Ambedkar in a loud voice. It is the allegation against other persons that they abused in the name of caste. He thus submits that, in the FIR there is no averment stating that the accused persons belong to upper caste.

5. The learned advocate for the appellants relies upon the judgment in the case of **Balasaheb s/o Baban Balode Vs. The State of Maharashtra and another** in **Criminal Appeal No. 582/2024** (Aurangabad). This Court in the said judgment considered that, there has to be averment that the accused persons belong to upper caste and that the victim/complainant belongs to Scheduled Caste or Scheduled Tribe. It is further observed that, if the offence is occurred within four corners of wall where members of public are not present, no case is made out attracting provisions of Sections 3(1)(s) and 3(1)(r) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short “Atrocities Act”).

6. The learned advocate for the appellants further relies upon the judgment in the case of **Udhav s/o Gyanoba Budhwant Vs. State of Maharashtra and others** reported in **2019 All MR (Cri.) 1713**. In the said case, this Court considered that, it is necessary

to state in the FIR that the appellant belongs to higher caste or at least that he is not a member of Scheduled Caste or Scheduled Tribe as it is the basic ingredient of the section.

7. The learned advocate further relies upon the judgment in the case of **Deepak Kumar Tala Vs. State of Andhra Pradesh & Ors.** in **Criminal Appeal No. 1471/2025**. In the said case, the Court on prima facie examination of FIR formed an opinion that no offending statement was made in the presence of members of the general public and ingredients for attracting Sections 2(1)(r) and 2(1)(s) of the Atrocities Act were not attracted. The learned advocate further submits that, except Section 118 (1) of the Bhartiya Nyaya Sanhita (for short “B.N.S.”) other sections are bailable sections. The injuries are not grievous. He thus prays for release of the appellant on bail in the event of arrest.

8. The learned A.P.P. has produced the investigation papers. From the papers it is seen that there are two persons who have given statements with the Police about the incident. In the statements of both the persons it has come that the appellant No.1 also abused in the name of caste. She has produced on record the

injury certificate. The injuries appeared to be simple. The learned A.P.P, however, submits that in the case Balasaheb s/o Baban Balode (*supra*), the Court held that the offence had taken place within four corners of the wall where members of public are not present. She further submits that, in the case of Uddhav s/o Gyanoba Budhwant (*supra*), it is held that there has to be statement that the accused belongs to upper caste. However, these judgments are not applicable to the present case in her submission. She further submits that, in the case of Deepak Kumar Tala (*supra*), the Hon'ble Apex Court had gone through the facts of that case and prima facie had recorded that, no ingredients to attract the Sections 2 (1)(r) and 2(1)(s) are made out.

9. The learned advocate for the respondent No. 3 has produced on record discharge card which shows that the informant received fractured injury. He thus prays for rejection of the appeal.

10. This Court has heard the parties. It is seen that, the incident has taken place in the midnight near the lake in the village. It is the case that, the people excavate the silt from the lake site with

tractor. This incident has taken place where the people had taken their 2-3 tractors near the lake site for taking the silt. In view of the grievous injury this Court finds that the ingredients of Section 118 (1) of the B.N.S. are attracted. The statements of other two witnesses show that even this appellant has abused in the name of caste. Though the fractured injury is attributed to appellant No. 2, however, considering that there is material to show that the appellant No. 1 also abused in the name of caste, this Court finds that the bar under Section 18 would come into play. Considering that, this Court is not inclined to allow the appeal even to the extent of appellant No. 1, the criminal appeal, therefore, stands rejected.

11. Needless to say that, the observations are only for the purpose of deciding the appeal. The Trial Court not to be influenced by the same.

(KISHORE C. SANT, J.)

PS.B.