



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

937 CRIMINAL APPEAL NO. 852 OF 2024

**PRATAP BANDU SHEMBADE U/G. OF BANDU VINAYAK SHEMBADE AND
ANOTHER
VERSUS
THE SUPERINTENDENT OF POLICE AND OTHERS**

Ms. Pratiksha Kale h/f Mr. V. S. Kadam, Advocate for Appellants
(Through VC)
Mr. B. A. Shinde, APP for the respondent/State
Mr. Mahendra Panditrao Gandle, Advocate fo respondent no. 3

**CORAM : R. M. JOSHI, J.
DATE : 16th JANUARY, 2025**

PER COURT :-

1. This is a case wherein apparently the false implication of the applicants can be inferred from the facts as they appeared from the record. The informant lodged report on 13/08/2024 in respect of incident occurred on 12/08/2024 at about 7 pm. It is his case on that day co-accused Rushikesh, his father and brother along with other 20 persons caused assault on him with stone and stick. In the said incident serious injuries caused to him. When he raised shouts, the appellants ran away from the spot and at that time his father and others came there.

2. Learned counsel for the appellants submits that in the first information report there is no allegation which could attract provisions of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act

(for short 'SC and ST Act'). She further submits that supplementary statement is recorded after more than 2 months of the incident in which he claims that there was incident of the informant being abused over his caste. It is thus her submission that this could be a case of false implication by the informant. It is further argued that in the first information report no specific allegations are made as to who has caused assault. It is her contention that on the basis of general allegation, appeal cannot be rejected.

3. Learned counsel for the informant opposed the appeal by submitting that in the said incident informant had sustained serious injuries including fracture injuries to the fingers as well as nasal bone. It is his submission that the informant was hospitalized upto 18/08/2024. He claims that the non recording of supplementary statement immediately cannot be attributed to the informant as it was a fault on the part of the investigation agency. To support the submission that he had been to the police station and his statement was not recorded, he referred to complaint addressed to the Superintendent of Police, Beed dated 09/08/2024. It is his submission that in the supplementary statement it is specifically stated by the informant as to the role of present applicants in the said assault so also the applicability of the provisions of SC and ST Act.

4. Learned APP opposed the appeal by citing seriousness of the crime he placed reliance on the statements of witnesses who submit that the involvement of the appellants is seen in the crime.

5. There is no dispute about the fact that immediately after the occurrence of the incident first information report was lodged, wherein there is no whisper about the informant being abused over his caste. Admittedly, the appellants' side lodged first information report against the informant herein for the offence under Section 394 of the Indian Penal Code. It is thereafter and that to after period of two months that the occurrence of the incident informant makes statement that he was abused over the caste. This Court finds substance in the contention of the learned counsel for the appellants that this could be a counter blast to the report lodged on appellants' side against him.

6. No doubt there is evidence on record to indicate that the informant had sustained injuries. However, when there is allegation that about 20 persons caused that those injuries, there has to be some specific allegation indicating as to who has caused the injuries to the informant. First information report is absolutely general and vague. As observed herein above, the supplementary statement is recorded after two months and as such this Court is not inclined to accept the said statement as gospel truth. More particularly in view of the fact that the

statement came to be recorded after report was lodged against the informant himself.

7. Having regard to these facts, this Court finds substance in the contention of the learned counsel for the appellants that the provisions of SC and ST Act may not get attracted to the present case. The appellants have no criminal history. They are not likely to flee from justice. In the circumstance, there is no reason for rejecting the appeal. Hence, appeal stand allowed in terms of interim orders dated 23/09/2024 and 30/09/2024.

8. For the purpose of recovery of any recovery they shall be deemed to be in custody of police.

(R. M. JOSHI, J.)

ssp