



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

CRIMINAL APPEAL NO. 1066 OF 2024

Wazed Zahiruddin S/o Fayazoddin Inamdar
And Another

.. Appellants

Versus

The State Of Maharashtra And Another

.. Respondents

**WITH
CRIMINAL APPLICATION NO. 4974 OF 2024
IN APEAL/1066/2024**

Wazed Zahiruddin S/o Fayazoddin Inamdar
And Another

.. Applicants

Versus

The State Of Maharashtra And Another

.. Respondents

Mr. J. N. Singh, Advocate for the Appellants/Applicants.
Smt. A. S. Deshmukh, APP for Respondent No. 1.
Mr. S. S. Nade, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATE : 12th AUGUST, 2025.

PER COURT :-

. Heard learned advocate for the appellants, learned A.P.P. and
learned advocate for respondent No. 2.

2. The appellants are facing trial for the offences punishable under Sections 294, 323, 504, 506 r/w Section 34 of the Indian Penal Code (for short “I.P.C.”) and Sections 3(1)(r), 3(1)(s), 3(1)(u) of the SC and ST (Prevention of Atrocities) (for short “Atrocities Adt”) Act in Special Case (Atrocities) No. 69/2018. In the said trial the appellants filed an application seeking their discharge mainly on the ground that no case is made out to attract the provisions of the Atrocities Act.

3. The learned advocate for the appellants submits that, on 09.06.2018 the informant filed first complaint with the Police Station, however, no cognizance was taken. On 22.06.2018 another complaint was filed wherein, for the first time allegations under the Atrocities Act are appearing. Since no offence was made out the authorities did not take any action. Even the Police prepared a report that no offence is made out. The said report is dated 12.10.2018. He further submits that, the informant thereafter filed an application under Section 156(3) of the Code of Criminal Procedure (for short “Cr.P.C.”). On that, the learned Special Court passed an order. The learned Special Court directed the investigation. After investigation now a charge-sheet is filed

and case is registered. In that case he filed an application for discharge. The said came to be rejected.

4. The learned advocate for the appellants vehemently argued that, looking to the material and the conduct of the informant it is clear that, there is no material to frame charges under the Atrocities Act. The learned Trial court has wrongly rejected the application. The learned Court ignored the report dated 12.10.2018 prepared by the learned Dy.S.P. wherein, it is clearly mentioned that no case is made out. The learned Trial Court ignored the same saying that he is falsely implicated. He submits that, incident has not occurred in public view to attract Sections 3(1)(r) and 3(1)(s) of the Atrocities Act. He thus prays for allowing the appeal.

5. The learned A.P.P. vehemently argued that, the Police conducted investigation and thereafter, charge-sheet came to be filed. In the charge-sheet there are statements of witnesses showing that the offence is clearly made out. Two of the witnesses are independent eye witnesses and two witnesses are related to the informant. She submits that the report dated

12.10.2018 was prepared without any crime being registered. The charge-sheet is filed in view of direction under Section 156(3) of the Cr.P.C. and after investigation. She thus submits that, at this stage what needs to be seen is only sufficiency of material to frame the charge and not the material to consider that whether it is sufficient to bring the conviction or not. She thus prays for rejection of the appeal.

6. The learned advocate for respondent No. 2 also forcefully argued that, clearly there is material available on record showing that the offence has taken place.

7. After hearing the parties, this Court has seen the order passed by the learned Trial Judge. The learned Trial Court framed the point as to whether there is sufficient ground to proceed against the accused. The Court considered the record and the statements recorded during the course of investigation. The charge-sheet contains statements of witnesses recorded under Section 161 as well as under Section 164 of the Cr.P.C. which is sufficient to frame the charges.

8. The learned advocate for the appellants during the course of

argument relied upon the judgments in the cases of (i) Hutu Ansari @ Futu Ansar & Ors. Vs. The State of Jharkhand in S.L.P. No. 6763/2023 and (ii) Kuruppudayar Vs. State represented by the Deputy Superintendent of Police, Lalgudi Trichy & Ors. in S.L.P. Nos. 8778-8779/2024.

9. Both these judgments deal with the public view under the Atrocities Act.

10. The case of Hutu Ansari @ Futu Ansar (*supra*), is decided after full fledged trial. The Hon'ble Apex Court found that there is no sufficient material to show that offence has taken place in public place and therefore, on that evidence held that no case was made out under sections 3(1)(r) and 3(1)(s) of the Atrocities Act. Present case is only at the stage of trial. The evidence is yet to come on record. The material available is sufficient to proceed with the trial.

11. In the case of Karuppudayar (*supra*), the Hon'ble Apex Court held that, whether the Hon'ble Apex Court has considered the phrase within public view under sections 3(1)(r) and 3(1)(s) of the Atrocities Act. Necessarily this is a question of fact which

needs to be gone during the course of trial in the present case. It is only after evidence is taken and the same is proved, the Court can come to conclusion about the conviction or to trial.

12. The learned advocate for respondent No. 2 relied upon the judgment of the Full Bench of the Hon'ble Apex Court in the case of Hitesh Verma Vs. State of Uttarakhand and another reported in (2020) 10 SCC 710 to the extent of public view.

13. In the present case, there is no question about the public view. As already stated, it is a matter of evidence. Prima facie, it is seen from the FIR and the statements of the witnesses recorded of the Police, the offence has taken place within public view.

14. Considering the above, this Court finds that, there is no merit in the appeal. Criminal appeal deserves to be dismissed.

15. Criminal appeal stands dismissed.

16. In view of dismissal of criminal appeal, Criminal Application No. 4974/2024 also stands disposed of.

(KISHORE C. SANT, J.)

PS.B.