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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO.7 OF 2022

THE STATE OF GOA THR.
DY. SUPERINTENDENT OF
POLICE, CRIME BRANCH.

... Applicant.

Versus

MANJIRI DHARGALKAR
AND 2 ORS.

... Respondents.

Mr. Pravin Faldessai, Additional Public Prosecutor for the
Applicant.

Mr. C.A. Ferreira, Senior Advocate, with Mr. Nehal Govekar.
Mr. Sujay Kamulkar and Mr. Rakesh Naik, Advocates for
Respondent Nos.1 and 2.

Mr. Vasudev Shirodkar, Advocate for Respondent No.3.

CORAM: VALMIKI MENEZES, J.

DATED: 17th June, 2025

P.C:

1. This is a Criminal Revision impugning an order of discharge dated 09.12.2021, whereby the Respondents have been discharged of the offences alleged to have been committed under Section 3(1)(r)(s) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. At the time the Criminal Revision Application was filed, the

same was filed only against Respondent No.1 who was the original Accused No.1 arraigned in the charge-sheet. That Revision was filed within the period of limitation. However, subsequent thereto, the Respondent No.2 was impleaded in the Revision Application being the Accused No.2 who had also been discharged under the very same impugned order. On the face of it, the Revision Application would have been time-barred if preferred separately against the Respondent No.2. Nevertheless, the application is examined qua both the Accused against whom the offences have been alleged.

3. Learned Additional Public Prosecutor submits that the Sessions Court has committed an error in discharging the Accused as it has failed to appreciate the prima facie evidence in the statements made by the witnesses; it was further submitted that the Sessions Court has failed to take into account the fact that the surname of the Complainant was “Gawade” and not “Gaudi”. The learned Additional Public Prosecutor submits that the specific words uttered, as alleged in the complaint would, per se, constitute an offence under the Act. He further submits that there is enough material in the form of statements of witnesses or neighbours who heard the abuses, to bring out the offence.

4. The ingredients for an offence to be sustained under Section 3(1)(r)(s) of the Atrocities Act, the utterance or insult by the Accused referring to the caste of the Complainant has to be made to members of the public who are present during the incident. Mere hurling of

caste related abuses are not sufficient to bring out the ingredients of the offence and what is required is that the same should be heard or witnessed by members of the public who are within earshot of the utterance.

5. In *Ramesh Chandra Vaishya v. State of Uttar Pradesh and Anr.* reported in (2023) 17 SCC 615, the requirements of the provisions of Section 3(1)(r)(s) have been considered in the following terms:

“14. Section 3(1)(x) of the SC/ST Act, prior to its amendment notified vide S.O. 152(E) dated 18-1-2016, read as follows:

“3. Punishments for offences of atrocities. — (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, —

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

15. The first FIR, registered at the instance of the complainant, is silent about the place of occurrence and who, being a member of the public, was present when the appellant is alleged to have hurled caste related abuses at the complainant. However, on a reading of the second FIR registered at the behest of the appellant, it appears that the incident took place at the house of the appellant.

16. The first question that calls for an answer is whether it was at a place within public view that the appellant hurled caste related abuses at the complainant with an intent to insult or intimidate with an intent to humiliate him. From the charge-sheet dated 21-1-2016 filed by the IO, it appears that the prosecution would seek to rely on the evidence of three witnesses to drive home the charge against the appellant of committing offences under sections 323 and 504, IPC

and 3(1)(x), SC/ST Act. These three witnesses are none other than the complainant, his wife and their son. Neither the first FIR nor the charge-sheet refers to the presence of a fifth individual (a member of the public) at the place of occurrence (apart from the appellant, the complainant, his wife and their son). Since the utterances, if any, made by the appellant were not “in any place within public view”, the basic ingredient for attracting section 3(1)(x) of the SC/ST Act was missing/absent. We, therefore, hold that at the relevant point of time of the incident (of hurling of caste related abuse at the complainant by the appellant), no member of the public was present.”

6. The learned Sessions Judge has made detailed reference to the statements of the Complainant and has addressed precisely this issue, as to whether the ingredients of the offence have been made out. The considerations are found in paragraphs 13 to 15 and 25 of the Judgment.

7. On perusing the findings given by the Sessions Court I am of the opinion that it has adverted to the correct considerations of the ingredients of the provisions of Section 3(1)(r)(s) and has considered the statements of the witnesses, to correctly arrive at the conclusion that the ingredients of the offence of which the Accused were charged of, did not exist. There is no infirmity in the impugned order and the same is sustained.

8. The Revision Application is, therefore, dismissed. No costs.

VALMIKI MENEZES, J.