

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 858 OF 2024**

Prabhakar Ramchandra Desai

... Appellant

Versus

State of Maharashtra and Anr.

... Respondents

.....

Mr. Sanjeev Kadam, Senior Advocate a/w. Ms. Anjali Purav, Advocates for the Appellant.

Smt. Poonam P. Bhosale, APP for the State.

Mr. Sagar S. Tambe, Advocate for Respondent No.2. (Appointed Advocate)  
API – Eknath Paulbudhe, Manpada Police Station present.

**CORAM : SHIVKUMAR DIGE, J.****DATED : 26<sup>th</sup> FEBRUARY, 2025.****P.C. :**

1. This appeal is preferred against the order date 09.08.2024 passed by Special Judge, Kalyan, rejecting the Anticipatory Bail Application filed by the appellant observing that there is prima facie case against the appellant under Section 3(1)(za) (A), 3(1)(zc), 3(1)(za)(e), 3(1)(u)(p)(q) appellant & 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is prosecution's case that appellant is the Chairman of the Trust viz. Dombivali Shikshan Prasarak Mandal. This Trust runs K.V. Pendharkar College of Arts, Science and Commerce. The respondent No.2 is Assistant Professor in the said College. It is alleged that on 18.06.2024, at around

6:58 a.m., when informant went to college for attending the duty, the concerned staff informed him that the appellant had directed him not to assign him any duty. At 7:38 a.m. the appellant called him on his whatsapp call but there was no conversation between them. It is alleged that around 8:12 a.m. the appellant again called him on whatsapp call and abused him on his caste. It is alleged that around 7:30 a.m. he was denied the entry by the security guard of college stating that he was instructed by the appellant not to allow him to enter in the college. It is alleged that the appellant had sought an explanation from the informant by sending message on his mobile and the first informant immediately sent his explanation on mobile of the appellant. It is alleged that on 19.06.2024 at 6:55 a.m., when the first informant tried to enter in the college, the security guard manhandled him.

3. It is contention of learned Senior counsel for the appellant that appellant has been falsely implicated in this case. The appellant never abused first informant on his caste, as alleged by him. Learned Senior Counsel further submitted that the message sent by the informant on the appellant's mobile shows that, it was sent to an unknown person stating that he does not know who has sent the message to him and in the said message, there is no reference of caste based abuse to the appellant. The said message sent around 11:00 a.m. i.e. after happening of the incident as

alleged in the FIR around 8:00 a.m. Learned Senior Counsel further submitted that due to dispute in college, the first informant has filed false complaint against the appellant but this facts has not been considered by the learned Special Court. The appellant is a reputed person, he is the Chairman of the Trust. As there is no case against him, his custodial interrogation is not required and requested to allow the appeal.

4. It is contention of learned APP along with learned counsel for respondent No.2 that the appellant abused the first informant on his caste by making whatsapp call. The appellant also prevented entry of first informant in the college. The police has produced call data, which shows record of calls between the appellant and first informant. The learned Special Court has passed well reasoned order, no interference is required in it. Considering the allegations against the appellant, his custodial interrogation is required. Learned APP further submitted that police has recorded the statement of the witnesses which supports the prosecution's case and requested to dismiss the appeal.

5. I have heard all learned counsel. Perused the order passed by learned Special Court. The allegations against the appellant are that on 18.06.2024, around 8:00 a.m. the appellant had called first informant on his whatsapp call and abused him on his caste. The appellant has annexed the text message sent by first informant on his whatsapp, which is at page

No. 81 of the appeal. In the said message, the informant has stated that he does not know whose number it was. In the said message, there is no reference of any abuse to him on his caste. Moreover, there is delay of seven days for filing the FIR. Considering the whatsapp message sent by the first informant to the appellant, the alleged act committed by the appellant does not make out, hence custodial interrogation of the appellant is not required and I pass following order.

### ORDER

- i. The Order dated 13.08.2024 passed by this Court (Coram : Sandeep V. Marne, J.) is hereby confirmed.
  - ii. The Trial Court shall not be influenced by the observations made in this order and shall decide the matter on its own merits and in accordance with law.
6. The Appeal is allowed in the aforesaid terms and is accordingly disposed of.
7. All concerned to act on the authenticated copy of this order.

( SHIVKUMAR DIGE, J.)