

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.1084 OF 2024

1. Balasaheb Chandrakant Khaladkar	]	
Age: 44 years, Occup. Business,	]	
2. Shital Balasaheb Khaladkar	]	
Age: 42 years, Occup – Household,	]	
3. Ganesh Balasaheb Khaladkar	]	
Age: 22 years, Occ – Business,	]	
All R/a – Thigalestal, Rajgurunagar,	]	
Tal – Khed, Dist – Pune.	]	Appellants

Versus

1. State of Maharashtra	]	
Though Investigation Officer,	]	
Khed Police Station, Pune	]	
2. Sandhya Pramod Gotrane	]	
Age – 60 years, Occup – Retired,	]	
R/at – Chakan, Tal – Khed, Dist – Pune]		Respondents

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Mr. Shailesh Chavan, for Appellants.

Mr. P.P. Jadhav, A.P.P, for Respondent No.1 – State.

Mr. Rohan Hogle a/w Mr. Sainath Garade, Mr. Shubham Sane, for Respondent No.2.

Mr. Amol Mandave, SDPO, Khed (Pune Rural) present.

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CORAM : PRITHVIRAJ K. CHAVAN, J.
RESERVED ON : 23rd January, 2025.
PRONOUNCED ON : 3rd February, 2025.

ORDER:

1. Feeling aggrieved with and dissatisfied by the impugned order dated 25th September, 2024 passed by the Additional Sessions Judge, *Khed, Rajgurunagar, Pune* by which, an application i.e Criminal Bail Application No.535 of 2024 seeking anticipatory bail came to be rejected, the appellants - the original accused Nos.1 to 3 have preferred this appeal under section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 1989 (for short "Act"). A few facts germane for disposal of this appeal are summarized as follows.

2. The appellants have been booked in connection with C.R. No.509 of 2024 on 5th September, 2024 for the offences punishable under sections 3 (5), 324 (4), 329 (3), 351 (2) and 352 of the *Bhartiya Nyaya Sanhita*, 2023 as well as under sections 3 (1) (r), 3 (1) (s), 3 (2) (va) and 6 of the Act.

3. Complainant – Sandhya Pramod Gotrane is a senior citizen. She is the owner of land *Gat* No.92/1 situate at *Mouje Sandbhorwadi, Taluka Khed, District Pune* admeasuring 09.00 R. It was in the name of mother-in-law of the complainant namely Vimal Madhukar Gotrane. *Gat* No.92/2 belong to the appellants.

4. According to the complainant, on **13th April, 2024** around 11.00 a.m when she along with her family members went to inspect their land *Gat* bearing No.92/1, to their surprise, they noticed the wire compound which was erected by them, has been broken. When they inquired with the appellants about the said act, it is alleged that the appellants abused the complainant “महारडे तुमची काय लायकी आहे तुम्ही काय कंपाउंड टाकता तुमच्या जमिनीचा ताबा घेतो”. However, the appellants said to have apologized the complainant and, therefore, the complainant did not file any report against them.

5. Subsequently, on **2nd June, 2024** around 12.30 p.m when the complainant had been to her land along with her kin, the appellants again threatened the complainant by saying that they should not come to the said piece of land (complainant’s land).

6. Again, on **1st September, 2024** when the complainant had been to her land along with her kin, she noticed that the wired compound had again been broken and the square iron tubes were missing from the spot which were used for erecting the fence. Upon inquiry with one Omkar Kavade, said Omkar Kavade stated that while going towards *Chakan*, he saw the appellants standing in complainant's *Gat* number and the compound was destructed. Consequently, an F.I.R came to be registered against the appellants.

7. Apprehending their arrest, the appellants moved an application seeking pre-arrest bail before the learned Special Judge, *Rajgurunagar*. The learned Special Judge after hearing the respective parties was pleased to reject the application by the impugned order and, therefore, the present appeal.

8. By an order dated 4th October, 2024, this Court granted interim relief to the appellants, *inter alia*, directing them to co-operate with the investigation and restrained them from contacting the complainant or witnesses associated with the case and tampering the evidence.

9. I heard Mr. Chavan, learned Counsel for the appellants, Mr. Jadhav, learned A.P.P and Mr. Hogle, learned Counsel for the complainant.

10. At the outset, learned Counsel for the appellants submitted that it is basically a civil dispute, in support of which, he invited my attention to a copy of the plaint in Regular Civil Suit No.276 of 2024 filed in the Court of Civil Judge Junior Division *Rajgurunagar*. The suit was filed by the appellants against Jagdish Madhukar Gotarane, Ganesh Dilip Kale, Snehal Dattatray Pawale, Vaibhav Yashwant Torvane, Gangubai Popat Bhokse, Chanda Balasaheb Javale and Sandip Sainath Jadhav. Complainant is not a party to the suit. According to the plaint, Survey No.92/2 belongs to the appellants and survey No.92/1 belongs to the complainant. It is a suit seeking relief of declaration and perpetual injunction against the defendant No.1 – Jagdish Madhukar Gotrane. Interestingly, it is not clear as to when the suit was filed. Admittedly, the incident as per C.R. No.509 of 2024 occurred on 13th April, 2024. Upon being asked, learned Counsel could not explain the date on which the suit came to be filed.

11. Paragraph 5 of the plaint indicates that on 19th August, 2024 when plaintiff No.1 (appellant No.2 herein) was keeping aside the tin shed and other articles near Survey No.92/2, she was threatened by defendant Nos.1 to 4 namely Jagdish Gotarne, Ganesh Kale, Snehal Pawale and Vaibhav Torvane that in case a shed or R.C.C structure is erected on the said Survey number, they will destruct the same. They threatened her of dire consequences. When the husband of the plaintiff No.1 had been to *Khed* Police Station to register an F.I.R, it was refused to be registered by the Police contending that it was a civil dispute.

12. No doubt, F.I.R bearing No.481 dated 14th August, 2024 is against unknown persons by the first informant - Ganesh B. Khaladkar. It depicts that on 14th August, 2024 around 11.30 a.m when he along with his mother was present in their Auto Spare Shop and Washing Centre, five to six unknown females trespassed into their shop, abused and manhandled his mother. A JCB machine was brought before the shop and the driver of the JCB started dismantling their shop viz; Ganesh Auto Spare. When the first informant went to obstruct the JCB Driver, he was assaulted by six to seven unknown persons by inflicting kick and fist blows

resulting into injuries. Interestingly, the first informant – Ganesh Khaladkar did not name any of the accused.

13. However, F.I.R dated 5th September, 2024 lodged by the complainant - Sandhya Gotarne clearly indicates that initially on **13th April, 2024** when she along with Jagdish Gotarne, Ashok Gotarne, Indrayani Gaikwad and Mamta Gotarne was in their land I. e *Gat* number No.92/1, she noticed that accused namely Balasaheb Khaladkar, Shital Khaladkar and Ganesh Khaladkar had dismantled their wire fencing. When the complainant and her kin asked the appellants about the said act, they abused the complainant – “महारडे तुमची काय लायकी आहे तुम्ही काय कंपाउंड टाकता तुमच्या जमिनीचा ताबा घेतो”. However, the F.I.R indicates that since they immediately tendered apology, no F.I.R was registered. The complainant thereafter re-erected wire fencing and displayed a board indicating their ownership.

14. The F.I.R further reveals that on **2nd June, 2024** around 12.30 p.m Jagdish Gotarne, Ashok Gotarne, Indrayani Gaikwad and Mamta Gotarne approached land *Gat* No.92/1, accused Balasaheb Khaladkar, Shital Khaladkar and Ganesh Khaladkar who were

present over there again threatened the complainant and her relatives restraining them from entering into their own land.

15. Again on **1st September, 2024** around 10.00 a.m, when complainant, Jagdish Gotarne, Ashok Gotarne, Indrayani Gaikwad and Mamta Gotarne were present in their land *Gat* No.92/1, they noticed that the wire compound has been broken and the material used for erecting the compound was missing. One Omkar Kavade informed them that he had witnessed that Balasaheb Khaladkar, Shital Khaladkar and Ganesh Khaladkar were present on the spot and the compound was broken. Accordingly, an F.I.R was registered against the appellants.

16. Argument of the learned Counsel for the appellants that there is a civil suit pending and that they had been to the Police Station to lodge a complaint on 1st September, 2024 against Jagdish Gotarne, Ganesh Kale, Snehal Pawale and Vaibhav Torane but the Police refused to register their report, *prima facie*, appears to be false in view of the fact that the first alleged incident appears to have occurred on 13th April, 2024.

17. In order to give a counterblast and by way of afterthought, perhaps the accused had concocted a story of approaching the Police and also filing a suit referred hereinabove, which is evident from the sequence of events as has been rightly argued by the learned learned Counsel for the complainant and the learned A.P.P. Learned Counsel for the complainant has brought to my notice that the suit came to be filed by the accused on 4th September, 2024 itself demonstrates a concocted afterthought by the appellants – accused. There is no dispute about the fact that the complainant belongs to the scheduled caste whereas the appellants do not belong to either scheduled caste or scheduled tribe.

18. Section 3 (1) (r) (s) and 3 (2) (v) (a) of the Act read thus;

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

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

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

3(2) (va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine.]”

19. From the F.I.R and the statement, *prima facie*, it is apparent that the appellants had intentionally insulted and intimidated the complainant and her family members within a public view by hurling abuses on their caste and have also committed offence in respect of the properties of the complainant which is admittedly owned and possessed by her viz. *Gat* No.92/1.

20. The complainant in her affidavit-in-reply at page 100 had narrated the incidents in detail. *Prima facie*, it is apparent from the record that the appellants had committed not only the offence of causing mischief, criminal trespass, criminal intimidation but also intentionally insulted the complainant with an intent to provoke breach of peace along with the provisions of the Special Act.

21. The learned Special Judge *Khed, Rajgurunagar* in the impugned order has rightly observed that *prima facie* it reveals that the appellants had no concern with the land of the complainant and the suit filed by the appellants was in respect of their land *Gat* No.92/2. The defence about political enmity is devoid of any substance. As such, the appeal stands dismissed.

22. Interim relief granted by this Court vide order 4th October, 2024 stands vacated.

23. The appeal stands disposed of.

24. At this stage, learned Counsel for the appellants prays for continuation of the interim relief. In view of the peculiar facts and circumstances and looking to the gravity of the offence, prayer to continue interim relief stands rejected.

[PRITHVIRAJ K. CHAVAN, J.]