

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2022

BEFORE

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL APPEAL NO.1085 OF 2021

BETWEEN

1. MANJULA,
W/O. RAVI,
D/O. LATE SAMPANGAPPA,
AGED ABOUT 41 YEARS,
2. AKKAMMA @ AKKIYAMMA,
W/O. LATE SAMPANGAPPA,
AGED ABOUT 60 YEARS,

BOTH ARE RESIDING AT
K. MALLASANDRA VILLAGE,
NEDAVATHAI POST,
HOSAKOTE TALUK,
BENGALURU RURAL DISTRICT-562 114.

...APPELLANTS

[BY SRI. G.M. ANANDA, ADVOCATE]

AND

1. STATE OF KARNATAKA
BY THIRUMALASHETTYHALLI POLICE,
THIRUMALASHETTYHALLI,

REPTD. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE – 560 001.

2. MUNILAKSHMAMMA,
W/O. GOVINDARAJU,
AGED ABOUT 49 YEARS,
R/O. K. MALLASANDRA VILLAGE,
KASABA HOBLI, HOSAKOTE TALUK,
BENGALURU RURAL DISTRICT-562 114. ...RESPONDENTS

[BY SRI. R.D. RENUKARADHYA, HCGP., FOR R.1/STATE;
SRI. THYAGARAJ M., ADVOCATE FOR R.2]

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THIS CRIMINAL APPEAL IS FILED UNDER SECTION 14(A)(2) OF SC/ST (POA) ACT, PRAYING TO SET ASIDE THE ORDER PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE AND SPECIAL JUDGE, BENGALURU RURAL DISTRICT, BENGALURU IN CRL.MISC.NO.136/2021, DATED 19.02.2021 AND IN CRL.MISC.NO.416/2021 AND DIRECT THE 1ST RESPONDENT TO RELEASE THE APPELLANTS ON BAIL IN THE EVENT OF THEIR ARREST IN CONNECTION WITH CR.NO.12/2020, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120B, 323, 324, 504, 506 READ WITH 34 OF IPC FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 3(1)(r), 3(1)(s) OF SC/ST (POA) AMENDMENT ORDINANCE, 2014, ON THE FILE OF THE 1ST RESPONDENT THIRUMALASHETTY HALLI POLICE AND SPL. CASE NO.188/2020 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, AND SPL.JUDGE, BENGALURU RURAL DISTRICT, BENGALURU.

THIS CRIMINAL APPEAL COMING ON FOR ADMISSION, THROUGH VIDEO CONFERENCE/PHYSICAL HEARING, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is preferred under Section 14(A)(2) of SC/ST (POA) Act, 1989, by the appellants/accused Nos.1 and 2 praying to set aside the order dated 19.02.2021 rejecting the bail petition filed under Section 438 of Cr.P.C., and consequently to enlarge them on anticipatory bail in connection with a case registered in Crime No.12/2020, for offences punishable under Sections 120B, 323, 324, 504, 506 read with 34 of IPC and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes

and Scheduled Tribes (POA) Amendment Ordinance, 2014.

2. Charge sheet has been filed against accused Nos.1 to 3 for offence punishable under Sections 114, 323, 324, 504, 506 read with Section 34 of IPC and Section 3(1)(r) 3(1)(s) of the Scheduled Castes and Scheduled Tribes (POA) Amendment Ordinance, 2014.

3. Heard the learned counsel for appellant, learned High Court Government Pleader for respondent/State as well as learned counsel appearing for respondent No.2.

4. Respondent No.2 lodged a complaint on 22.01.2020 at about 3.30 p.m. alleging that on 10.12.2019 at about 7.00 p.m., when her grandson aged about 6 years was playing near the heap of stone powder in front of their house, the accused persons assaulted him with a plastic wire on his legs and other parts of the body and when they enquired with the accused about the same, they pulled her holding her tuft and abused her

saying that she belongs to Scheduled Caste and why she is questioning them. Further, they threatened her with dire consequences and took her inside their house and hit her with hands and kicked her etc. It is further alleged that on 20.01.2020 at about 6.30 p.m. when she had gone near the public tap to collect the water, accused Nos.1 and 2 picked up a quarrel with her saying that she being a member of lower caste is collecting water from where they are collecting and snatched the pot from her hands and assaulted her with hands and also kicked her and pulled her hair etc.

5. It is contended by the learned counsel for appellant that a false complaint has been lodged by respondent No.2 as a counterblast to the complaints lodged by appellant No.1. He submits that there is a civil dispute between the parties and O.S.No.217/2019 is pending before the Civil Court and another private complaint in PCR No.66/2008 is also pending between the parties. He contends that appellant No.1 has lodged two complaints earlier against respondent No.2 and

others and only as a counterblast a false case has been foisted against the appellants herein. He contends that there is an inordinate delay in lodging the complaint and even if the entire allegations are taken at its face value then it cannot be said that the offences under the provisions of SC/ST (POA) Act are attracted. He therefore submits that the learned Sessions Judge has not properly considered these aspects and erroneously rejected the prayer seeking anticipatory bail.

6. Learned High Court Government Pleader contends that in view of specific allegations in the First Information Report that the appellants have abused the complainant by taking the name of her caste in public view, there is a *prima facie* case made out. He contends that if anticipatory bail is granted, the appellants may tamper the witnesses and therefore seeks rejection of the appeal.

7. Learned counsel appearing for respondent No.2 contends that Sections 18 and 18A is a bar to grant anticipatory bail to a person accused of committing an

offence under the SC/ST (POA) Act. He contends that the appellants have abused the complainant in public view and also picked up quarrel with her and prevented her from collecting water from the public tap. He therefore contends that the trial Court justifiably rejected the prayer seeking anticipatory bail.

8. The alleged incident is said to have taken place on 10.12.2019 and 20.01.2020. The complaint is lodged on 22.01.2020. Insofar as the incident which took place on 10.12.2019 at about 7.00 p.m. is concerned, it is alleged that when the six year old grandson of the complainant was playing in front of their house, the appellants assaulted him with a plastic wire and when the complainant went and enquired, she was also assaulted with hands and legs and she was kicked etc. It is further alleged that the appellants abused her stating that she belongs to Scheduled Caste and she should not question them and also threatened her with dire consequence etc.

9. Omnibus allegations are made that both the accused have abused the complainant stating that she belongs to Scheduled Caste and she should not question her. It is not specifically stated as to which of the accused abused her referring to her caste. On the other hand, it is alleged that both the accused abused her in a similar manner.

10. Insofar as the incident which took place on 20.01.2020 is concerned, it is alleged that when the complainant was bringing water from the public tap, both the appellants snatched the pot and assaulted with hands and legs and also pulled her hair and abused her saying that she is from a lower caste and inspite of telling her, she is collecting water from the public tap where they are collecting.

11. The eyewitnesses whose statements are recorded have not stated in their statements that the appellants have abused the complainant saying that she is hailing from a lower caste and she is collecting water from the tap where they are collecting etc. On the other

hand, they have stated that it was informed to them by the complainant.

12. The learned counsel for appellant has produced the copies of two FIR's registered on a complaint lodged by appellant No.1 herein. Crime No.3/2020 is in respect of an incident which took place on 10.12.2019, wherein a case is registered against ten persons and the complainant herein is accused No.4. Crime No.11/2020 is registered in respect of an incident which took place on 20.01.2020 at about 6.30-7.30 p.m. against twelve accused persons wherein the complainant is accused No.4.

13. It is relevant to see that the above case in Crime No.11/2020 is in respect of the incident said to have taken place on 20.01.2020. Only after registration of the said case on 21.01.2020 at 9.00 p.m., the present complaint came to be lodged by respondent No.2 against the appellants and another on 22.01.2020 at 3.30 p.m., registered as Crime No.12/2020. Be that as it may, from a careful perusal of the complaint averments it does not

appear that only on the ground that the appellants belong to Scheduled Caste, she was either abused or assaulted by the complainant and therefore it cannot be said that a *prima facie* case has been made out attracting the provisions of the SC/ST (POA) Act, at this stage. The allegations have to be established by the prosecution in due course in a full-fledged trial. For the aforesaid reasons, the following

ORDER

Appeal is allowed.

The impugned order is set aside.

The appellants/accused Nos.1 and 2 in Crime No.12/2020 of Thirumalashettahalli Police Station, now pending on the file of II Additional District and Sessions Judge and Special Judge, Bengaluru in Special Case No.188/2020 shall be released in the event of their arrest subject to following conditions:

- i. Appellants shall appear before the jurisdictional Court within a period of 10 days from the date of receipt of a copy of this order and shall execute a bond in a sum

of Rs.50,000/- (Rupees fifty thousand only) each with two sureties for likesum to the satisfaction of the learned Sessions Judge.

ii. Appellants shall co-operate with the further investigation if any and make themselves available for the investigation, whenever required.

iii. Appellants shall furnish proof of their residential address and shall inform the Investigating Officer/Court, if there is any change in the address.

iv. Appellants shall not tamper with the prosecution evidence/witnesses in any manner.

v. Appellants shall be regular in attending the Court proceedings.

**SD/-
JUDGE**

HB/-