THE HIGH COURT OF MADHYA PRADESH

Criminal Appeal No.8182/2019

(Alkesh and others Vs. State of M.P.)

Indore, Dated: 14/09/2021

Shri Gaurav Laad, learned counsel for the appellants.

Shri A.S. Parihar, learned Panel Lawyer for the respondent/State.

Shri Harshwardhan Pathak, learned counsel for the objector.

1] Appellants have preferred this appeal under Section 14-A of the SC/ST (Prevention of Atrocities) Act, 1989 read with Section 374 of Cr.P.C. against the order dated 14/10/2016 passed in SST No.20026/2016 whereby the learned Judge of the trial Court has framed the charges against the appellants under Section 147, 149, 294, 323, 506(2) of IPC and under Section 3(2)(5A) of the SC/ST (Prevention of Atrocities) Act, 1989 (hereinafter, 'the SC/ST Act').

2] The facts giving rise to the present appeal are that on 12/04/2016, a dispute took place between the appellants and the complainant Jagdish when they had gone to the well of Hukum Patel for immersing the Gangor Mata. In the FIR, it is alleged that there were several people of all the religion and the dispute started as the complainant Jagdish was got pushed by the appellant No.1 Alkesh in the crowd and as the complainant objected to the appellant No.1 Alkesh, he and other accused persons started beating him and when the other persons also came, they were also assaulted. Initially the case under Section 294, 323, 506 and 34 of the IPC was registered, however, on the basis of the statement recorded by the witness after more than one month, i.e. on 10/05/2016, Section 3(2)(5A), 3(1) (d)(r) of the SC/ST (Prevention of

Atrocities) Act, 1989 were also added in the charge sheet, although, at the time of framing of charges, Section 3(1) was also dropped and the charges have been framed under Section 294, 323, 506(2) of IPC and under Section 3(2)(5A) of the SC/ST Act.

3] Learned counsel for the appellants has submitted that the appellants have been falsely implicated under the provisions of the SC/ST (Prevention of Atrocities) Act, 1989 by the complainant party which is apparently an afterthought as in the FIR dated 12/04/2016, there is not a whisper regarding the involvement of the caste of the complainant or any other person and it was simply a trivial dispute which arose after the appellant No.1 fell on the complainant in the crowd.

4] Counsel has further submitted that not only in the FIR, but in the subsequent statement of the witnesses under Section 161 of Cr.P.C. recorded on 13/04/2016 i.e. one day after the incident, there is again no reference of any caste or any aspersions made on the caste of the complainant party. However, after around 3 days short of one month from the date of incident, i.e. on 10/05/2016, one of the injured witness Antim who, in his earlier statement recorded under Section 161 of Cr.P.C. did not mention his caste, has improvised his statement and has alleged involvement of the caste of the complainant party in the dispute and it has been alleged that the appellants also made aspersions on the caste of the complainant party. Thus, counsel has submitted that the complainant party, after realizing that they can also falsely implicate the appellants in the offence under the SC/ST (Prevention of Atrocities) Act, as they belong to SC/ST community, has falsely

implicated the appellants and in such circumstances, the petition is liable to be allowed and the charges framed under Section 3(2)(5A) of the SC/ST Act is liable to be quashed.

5] Learned counsel for the respondent/State as also for the complainant have opposed the prayer and it is submitted by the counsel for the complainant that no case for interference is made out as the complainant party has clearly mentioned that the appellants also made aspersions on their caste the incident and as such no case for quashing the charge under the provisions of SC/ST Act is made out.

6] Having considered the rival submissions and on perusal of the charge sheet as also the documents which have been filed by the appellants along with the appeal, this Court finds force with the contentions raised by counsel for the appellants.

7] This court is of the considered opinion that although it is true that an FIR is not an encyclopedia of the incident or the facts surrounding the incident, however, there are certain basic requirements while lodging an FIR on the perusal of which one must be able to find out about the substance of the offence, and the caste of the complainant is something which cannot be missed by him while lodging the same, especially when the caste itself was an important aspect of the matter. The caste of the complainant is of paramount importance and is a *sine qua non* in a case under the SC/ST Act and it cannot be assumed that the complainant would forget to mention in the FIR that the assailants also made aspersions against his caste. It is also apparent from the charge sheet that the caste of the complainant surfaced for

the first time on 10/05/2016, i.e. after 28 days delay of the incident in the supplementary statement under Section 161 of Cr.P.C. where as in the FIR dated 12.04.2016, as also in the statement recorded under Section 161 of Cr.P.C. on 13.04.2016, there was no reference of the caste of the complainant. In such circumstances, this Court has no hesitation to hold that the allegation regarding aspersions on the caste of the complainant was an afterthought and has been made subsequently only with a view to take advantage of the harsher provisions of SC/ST (Prevention of Atrocities) Act, 1989 which cannot be allowed.

8] As a result, the appeal is **allowed** and the charges so far as they relates to framing of charges against the appellants under Section 3(2)(5A) of the SC/ST (Prevention of Atrocities) Act, 1989, are hereby quashed.

C.c. as per rules.

(Subodh Abhyankar)
Judge

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THE HIGH COURT OF MADHYA PRADESH,INDORE BENCH

Single Bench : Hon'ble Mr. Justice Subodh Abhyankar
Criminal Case No.8182/2019
(Alkesh and others Vs. State of M.P.)

1	Case No.	Cr.A. No.8182/2019
2	Parties Name	Alkesh and others Vs. State of M.P.
3	Date of Order	14/09/2021
4	Bench constituted of Hon'ble Justice	Single Bench Hon'ble Shri Justice Subodh Abhyankar
5	Order passed by	Hon'ble Shri Justice Subodh Abhyankar
6	Whether approved for reporting	**Yes**
7	Name of counsel for the parties	Shri Gaurav Laad, learned counsel for the appellants. Shri A.S. Parihar, learned Panel Lawyer for the respondent/State. Shri Harshwardhan Pathak, learned counsel for the objector.
8	Law laid down	An FIR is not an encyclopedia of the incident or the facts surrounding the incident, however, there are certain basic requirements while lodging an FIR on the perusal of which one must be able to find out about the substance of the offence, and the caste of the complainant is something which cannot be missed by him while lodging the same, especially when the caste itself was an important aspect of the matter. The caste of the complainant is of paramount importance and is a *sine qua non* in a case under the SC/ST Act and it cannot be assumed that the complainant would forget to mention in the FIR that the assailants also made aspersions against his caste. Charges so far as they relates to framing of charges against the appellants under Section 3(2)(5A) of the SC/ST (Prevention of Atrocities) Act, 1989, are quashed.
9	Significant paragraph	7 and 8.

(Subodh Abhyankar)
Judge

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