

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 1906 of 2008****FOR APPROVAL AND SIGNATURE:****HONOURABLE MS. JUSTICE GITA GOPI Sd/-**

Approved for Reporting	Yes	No
		√

SANDIPBHAI MAHESHBHAI RANA & ORS.

Versus

STATE OF GUJARAT

Appearance:

MR ASHOK N PARMAR(2431) for the Appellant(s) No. 1,2,3

MS JYOTI BHATT APP for the Opponent(s)/Respondent(s) No. 1

CORAM: HONOURABLE MS. JUSTICE GITA GOPI**Date : 29/01/2026****ORAL JUDGMENT**

1. The challenge has been given by the appellants, who came to be convicted under Section 323, 504 read with Section 114 of the Indian Penal Code (for short 'I.P.C') and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes Act (for short 'the Atrocity Act') vide judgment and order of conviction dated 17.06.2008 passed by the learned Additional Sessions Judge, Fast Track Court, Bharuch in Special Atrocity Case No.31 of 2006.

2. The photocopy of the death certificate of the complainant – Ashokbhai Somabhai Vasawa has been placed on record. The

injured – Bharatbhai Rameshbhai Vasawa has affirmed the death of the complainant. The original victim Bharatbhai Rameshbhai Vasawa has produced an affidavit, affirmed before the Notary, Vijaykumar N. Rawal.

3. Learned Advocate Mr. Ashok N. Parmar for the appellants submitted that the parties have settled the disputes with the intervention of the village people and the community members. Advocate Mr. Parmar submitted that the offences under I.P.C are compoundable. Thus, made a prayer to accept the affidavit of the complainant. This Court had verified the affidavit through Bharatbhai Rameshbhai Vasawa, who appeared before this Court virtually. Though the affidavit was executed before the notary and a copy of aadhar card is placed along with the affidavit, this Court insisted for identification through an independent lawyer. Thus, the victim Bharatbhai Rameshbhai Vasawa stated that he would be appointing Advocate Mr. Harivardhan Mishra and sought permission to file the vakalatnama. Thus, the vakalatnama of Advocate Mr. Harivardhan Mishra be taken on record for identification of Bharatbhai Rameshbhai Vasawa.

4. Learned APP Ms. Jyoti Bhatt submitted that though the sections under I.P.C are compoundable and the Sections does not require even the permission of the Court, but the accused are also convicted under the Atrocity Act, thus stated that considering the object of the Act and the facts of the matter that the victim was injured by the accused, learned APP Ms.

Bhatt submitted that no settlement should be accepted under the Atrocity Act.

4.1 Learned APP Ms. Jyoti Bhatt submitted that the amount which victims have received as compensation be directed to be recovered from them.

5. Section 323 and 504 of I.P.C under Section 320 of the Criminal Procedure Code (for short, 'Cr.PC') as per Table-1 are compoundable by the person who are hurt and who sustained insult, the victim injured does not even require the permission of the Court to compound the offence. Thus, in view of the provision made in First Table under Section 320 Cr.PC, the offence under Section 323 and 504 stands compounded.

6. Section 3(1)(x) of the Atrocities Act reads as under:

"3(1)(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."

7. In the case of **Prathvi Raj Chauhan v. Union of India and Others** reported in (2020) 4 SCC 727, the Hon'ble Supreme Court (Per: Hon'ble Justice S.Ravindra Bhatt) referred to the judgment rendered in the case of Raghunathrao Ganpatrao vs. Union of India, reported in 1993 (1) SCR 480, wherein it has been held as under:-

"In our considered opinion this argument is misconceived and has no relevance to the facts of the present case. One of the objectives of the Preamble of our Constitution is 'fraternity assuring the

dignity of the individual and the unity and integrity of the nation.' It will be relevant to cite the explanation given by Dr. Ambedkar for the word 'fraternity' explaining that 'fraternity means a sense of common brotherhood of all Indians.' In a country like ours with so many disruptive forces of regionalism, communalism and linguism, it is necessary to emphasis and re-emphasis that the unity and integrity of India can be preserved only by a spirit of brotherhood. India has one common citizenship and every citizen should feel that he is Indian first irrespective of other basis. In this view, any measure at bringing about equality should be welcome."

8. In a similar way, the Hon'ble Supreme Court in the case of **Nandini Sundar Vs. State of Chhatisgarh**, reported in (2011) 7 SCC 457, held that:-

"The Constitution itself, in no uncertain terms, demands that the State shall strive, incessantly and consistently, to promote fraternity amongst all citizens such that dignity of every citizen is protected, nourished and promoted."

9. In the case of Prathvi Raj Chauhan (supra), while dealing with the constitutional validity of Section 18A of the Atrocities Act, it was held as under:-

"12. The Court can, in exceptional cases, exercise power under Section 482 Cr.P.C. for quashing the cases to

prevent misuse of provisions on settled parameter, as already observed while deciding the review petitions. The legal position is clear and no argument to the contrary has been raised....”

10. The parties have been residing in the same village and since Sections under 323 and 504 have been compounded, and further the facts of the matter suggest that the expression which has been considered as an insult referring to their community at large, however, it appears that there was no specific intention of humiliating the complainant and the victim by way of making any casteist remark.

11. In view of the above discussions and observations made in the referred judgments, the **appeal is allowed**. The conviction and sentence of the accused passed by the learned Additional Sessions Judge, Fast Track Court, Bharuch vide judgment and order of conviction dated 17.06.2008 in Special Atrocity Case No.31 of 2006 is quashed and set aside. Appellants-accused are acquitted. Registry is directed to send the Record and Proceedings back to the concerned trial Court forthwith.

Sd/-

(GITA GOPI,J)

PARMAR KRISH/16