

SUPREME COURT OF INDIA

Leena Vivek Masal

Vs.

State of Maharashtra

Crl.A.No.9 of 2018

(R.K.Agrawal and abhay Manohar Sapre,JJ.,)

05.01.2018

JUDGMENT

Abhay Manohar Sapre,J.,

SLP(Crl.)No.4678 of 2013

1. Leave granted.
2. These appeals are filed by two accused persons against the final judgment and order dated 21.02.2013 passed by the High Court of Judicature at Bombay in Crl.W.P. Nos. 2252/2011, 2251/2011 and 652/2012 which, in turn, arise out of the order dated 30.09.2008 passed by the Judicial Magistrate, Fast Court, Uran in Regular Case No. 6 of 2008.
3. It is not necessary to set out the factual details of the case in the light of the order that we are passing.
4. The present proceedings arise out of interim order dated 30.09.2008 passed by the Judicial Magistrate in Regular Case No.6 of 2008 whereby the Magistrate issued process summons against the appellants herein in relation to the complaint filed by respondent No. 2 under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Act”) seeking appellants’ prosecution for commission of the offences under the Act. The complaint is pending for its final disposal on merits.
5. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to dispose of these appeals with following observations:
6. First, as mentioned above, these appeals arise out of an interim order passed by the Magistrate by which he has issued process summons of the complaint filed by respondent No. 2 against the appellants; Second, when admittedly the complaint filed by respondent No.

2 against the appellants is pending consideration for its disposal on its merits and the appellants will get an opportunity to file reply and raise all the pleas and adduce evidence in accordance with law, therefore, we do not consider it proper to interfere in the impugned order; Third, the complaint filed by respondent No. 2 would be decided by the Magistrate on the basis of evidence adduced by the parties keeping in view the law applicable to the issues arising in the case; and lastly, the order issuing process against the appellants being purely interim in nature having been passed in exercise of its discretionary powers finding prima facie case to entertain the complaint filed by respondent No. 2, cannot be interfered with in our appellate jurisdiction under Article 136 of the Constitution. It is more so when the appellants would get full opportunity to raise all factual and legal pleas in accordance with law while contesting the complaint on merits.

7. So far as the observations made by the Magistrate in its earlier order dated 30.06.2006 in Regular Criminal Case No. 114/2005 is concerned, all that we need to say is that it will be for the Magistrate to decide its effect on the present proceedings at the time of final disposal of the complaint in accordance with law.

8. We make it clear that the Magistrate, who is seized of the complaint, would decide it on merits uninfluenced by any observations made by the High Court in the impugned order.

9. With these observations, the appeals stand disposed of finally.

10. Let the complaint be decided by the Magistrate expeditiously, as directed above.