

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 106 OF 2022
(Arising out of SLP (Criminal) No. 8082 of 2021)**

VETRIVEL

..... APPELLANT

V.

**STATE REPRESENTED BY ITS DEPUTY
SUPERINTENDENT OF POLICE & ANR.**

..... RESPONDENTS

J U D G M E N T

ABHAY S. OKA, J.

Leave granted.

1. The appellant was convicted by the learned Judge of the Special Court constituted under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Atrocities Act”). The appellant was convicted by the Special Court for the offences punishable under Sections 3(1)(r) and 3(1)(s) of the Atrocities Act, as well as for the offence punishable under Section 323 of the Indian Penal Code (for short “IPC”). For the first two offences, the appellant was sentenced to

undergo rigorous imprisonment for 3 years. He was sentenced to pay fine of Rs.1,000/- (Rupees One Thousand only). In default, he was sentenced to undergo rigorous imprisonment for 9 months. For the third offence, he was sentenced to undergo rigorous imprisonment for 1 one year and was also sentenced to pay a fine of Rs.1,000/- (Rupees One Thousand only). In default of payment of the fine, he was sentenced to undergo rigorous imprisonment for 3 months.

2. In an appeal preferred by the appellant, the order of conviction of the appellant for all of the three offences was confirmed. In Revision, by the impugned Judgment, the conviction was confirmed by the High Court. However, the substantive sentence imposed by the Special Court was reduced to two years. Notice was issued by this Court in the present appeal limited to the quantum of sentence.

3. The prosecution case in brief is that the added Respondent (the *de facto* complainant) along with her husband is running a tailoring shop. They have taken the said shop on a rental basis from one Chinnathambi, the owner of the shop. The present appellant is a relative of the said owner of the shop. The appellant is the brother of one Mekala. Their father is the brother of the owner of the shop. A quarrel ensued between the said Mekala and children of the *de facto* complainant. When the *de facto* complainant questioned Mekala, the appellant supported Mekala.

As a result of the said quarrel, the appellant started insisting on the *de facto* complainant vacating the tailoring shop.

4. The alleged incident is of 30th August 2014. According to the prosecution, the incident took place in front of the tailoring shop occupied by the *de facto* complainant. The allegation is that the appellant who is not a member of a scheduled caste or a scheduled tribe, abused and intimidated the *de facto* complainant who is a member of the scheduled caste. According to the prosecution case, the appellant used certain obscene words about the *de facto* complainant in front of the shop in her possession. Moreover, it is alleged that the appellant insulted the *de facto* complainant by mentioning her caste. It is alleged that the appellant caught hold of the *de facto* complainant and pulled her by holding her hair. The allegation is that the appellant also caused injury on the cheeks of the *de facto* complainant.

5. Shri S. Nagamuthu, the learned Senior Counsel appearing for the appellant submitted that assuming that the prosecution case is true, the incident complained of arose out of a dispute pertaining to the shop held by the *de facto* complainant. He submitted that even going by the prosecution case, only because the appellant insisted on the *de facto* complainant vacating the shop premises, a false complaint has been filed. He submitted that as per the Surrender Certificate on record, as of 23rd September 2021, the appellant had undergone sentence for 5

months and 25 days. Hence, as of now, the appellant has undergone sentence for more than 9 months. His submission is that this is a fit case where this Court should let off the appellant on the sentence which is already undergone.

6. Dr. Joseph Aristotle, the learned Standing Counsel representing the State of Tamil Nadu urged that the incident has occurred in a public place and the appellant is guilty of a very objectionable conduct of pulling the *de facto* complainant by holding her hair. He has also submitted that the High Court has already shown leniency by bringing down the substantive sentence to 2 years. He would, therefore, urge that no indulgence be shown by this Court.

7. We have given careful consideration to the submissions. In the impugned Judgment and order and in particular in paragraphs 5 and 7, it is noted that there was a quarrel between the children of the *de facto* complainant and the said Mekala. At that time, the appellant came to the rescue of Mekala. The allegation is that the appellant and his family members were insisting that the *de facto* complainant should vacate the shop in her possession. The reason for the incident appears to be the dispute over the said shop.

8. For the offences punishable under Section 3(1)(r) and Section 3(1)(s) of the Atrocities Act, the minimum sentence is of 6 months which may extend to 5 years and fine. A perusal of the judgment of the learned

Special Judge shows that he has proceeded on the footing that considering the age of the appellant and other circumstances, minimum sentence should be imposed. Nevertheless, he has not given any reasons for inflicting punishment of rigorous Imprisonment of 3 years. The High Court has not given reasons for fixing the quantum of sentence at 2 years.

9. Even according to the prosecution case, before the incident, there was a quarrel involving the children of the *de facto* complainant and the said Mekala. Moreover, the quarrel led to the demand for the surrender of the shop premises by the appellant on behalf of the owner of the premises. A perusal of the judgment of the learned Special Judge will show that the *de facto* complainant did not sustain any serious injury. In fact, she was taken to the hospital and was examined by a doctor (PW8). Though it is stated by PW8 that the *de facto* complainant was admitted to the hospital, PW8 has clearly stated that she did not suffer any injury. When the alleged offence was committed, the age of the appellant was 25 years. Criminal antecedents of the appellant have not been brought on record. Considering these facts and the fact that the appellant has already undergone a sentence for more than 9 months, this is a fit case where the substantive sentence should be reduced to rigorous imprisonment for 1 year. However, the appellant will have to pay total fine amount of Rs.25,000/- (Rupees Twenty Five Thousand) for

the three offences which will be payable within six weeks from today. On default of the payment of fine, the appellant will have to undergo rigorous imprisonment for a period of 3 months. To the above extent, the impugned Judgment and order needs modification.

10. The appeal is partly allowed. The substantive sentence imposed on the appellant is brought down to rigorous imprisonment for 1 year. The appellant shall pay a fine amount of Rs.25,000/- (Rupees Twenty Five Thousand) within a period of six weeks from today. In default of payment of fine, the appellant shall undergo rigorous Imprisonment for 3 months. The fine amount shall be paid to the added respondent.

11. All the pending applications, if any, are disposed of.

.....J
(AJAY RASTOGI)

.....J
(ABHAY S. OKA)

New Delhi;
January 19, 2022.