

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1347 OF 2023

1. Ramdas Bhika Sirsat
2. Bhausahab Ramdas Sirsat
3. Haridas Ramdas Sirsat
4. Vaishali @ Nandabai Haridas Sirsat
5. Nirmala Ramdas Sirsat

..APPLICANTS

VERSUS

1. State of Maharashtra
Through Police Station Officer,
Police Station Bhokardan, Dist. Jalna
2. Superintendent of Police, Jalna
3. Sominath Ganpat Suradkar

..RESPONDENTS

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Mr. M.R. Deshmukh, Advocate for applicants
Mr. R.V. Dasalkar, A.P.P. for respondent nos.1 and 2
Mr. U.A. Khekale, Advocate for respondent no.3

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CORAM	: R.G. AVACHAT AND SANJAY A. DESHMUKH, JJ
RESERVED ON	: 14th JULY, 2023
PRONOUNCED ON	: 21st JULY, 2023

ORDER (PER : R.G. AVACHAT, J.) :

1. Heard finally at admission stage with consent of learned counsel for the parties.

2. This application, under Section 482 of Code of Criminal Procedure, has been moved for quashment of the First Information Report

(‘F.I.R.’), being Crime No. 60 of 2023 registered with Bhokardan Police Station, Dist. Jalna for the offences punishable under Sections 143, 149, 336 and 506 of the Indian Penal Code (‘I.P.C.’) and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (‘S.C.S.T. Act’) and consequential Charge-sheet No. 77 of 2023 pending on the file of Sessions Court, Jalna.

3. The F.I.R. has been lodged on 03rd February, 2023 by 09:00 p.m. in relation to the incident that took place by the same time on the previous day. Gist of the averments in the F.I.R. is that the agricultural lands belonging to the applicants herein and the informant and his brothers adjoin each other. A public road separates both the lands. Land of the applicants is within the limits of village Rahimabad, Tq. Sillod, Dist. Aurangabad, whereas that of the informant in village Bhivpur, Tq. Bhokardan, Dist. Jalna. There is dispute between these two families over a right of way. A *rasta* case was pending before the Mamlatdar. Crimes have also been registered against each other in the past.

4. So far as regards the crime in question is concerned, it is averred that by 09:30 p.m. on 02nd February, 2023 the informant, alongwith his brothers had been to the field to switch on the electric motor on the well. The informant and his brothers reside in their respective houses standing on the

said land (Gut No. 100). The applicants came in front of the house of the informant and his brothers. They started abusing them. Applicant Nos.2 and 3 – Bhausaheb and Haridas respectively, abused the informant and his brothers over their caste (allegations are not reproduced here at). The applicants then pelted stones on the houses of the informant and his brothers. The informant and all his family members took shelter behind their houses. On hearing noise, other brothers of the informant viz. Shivaji and Sambhaji arrived there. The applicants, thereafter left the spot after giving threats to the informant and his family members.

5. Learned counsel for the applicants would submit that a false and concocted F.I.R. has been lodged. No incident as alleged did take place. Admittedly, the applicants have their houses far away from the agricultural land. They have, therefore, no reason to be in their field by little past 09:00 p.m. on the given day. There is history of disputes over a right of way. Crimes have also been registered against each other in the past. There is about twenty-four hours delay in lodging of the F.I.R. The applicants sold their land in the recent past on having been fed-up with the troubles by the informant and his family members. According to learned counsel, even we accept the incident as it is, no offence under the S.C.S.T. Act could be said to have been committed. No stranger was present while some of the applicants allegedly abused the informant and his brothers over their caste. As such, the

offence could not be said to have been committed in a public view. He, therefore, urged for grant of the application.

6. Learned counsel for Respondent No.3 – informant and learned A.P.P. would, on the other hand, submits that veracity of the averments in the F.I.R. cannot be scanned in this proceeding. Perusal of the F.I.R. as it is prima facie makes out a case to proceed against the applicants. Statements of the persons acquainted with the facts and circumstances of the case reinforce the averments in the F.I.R. Learned counsel, therefore, urged for rejection of the application.

7. Considered the submissions advanced. Perused the F.I.R. and related police papers.

8. Land of both the applicants on one hand and the informant and his family members on the other adjoin each other. A public road separates both the lands. A dispute over right of way was pending before the Mamlatdar. Crimes have been registered against each other in the past. The applicants have preferred applications to the police authorities informing that the informant and his family members had been threatening them of implicating in offences under the S.C.S.T. Act. There is also on record a copy of sale-deed indicating the applicants have sold their land in the recent past.

According to learned counsel for the applicants, the land was sold because of having been fed-up with the harassment by the informant and his family members.

9. The alleged incident took place by 09:00 p.m. on 02nd February, 2023. The F.I.R. thereof was lodged about twenty-four hours thereafter. The applicants were alleged to have had come together outside the houses of the informant and his brothers. Two of the applicants viz. Bhausahab and Haridas allegedly abused the informant and his brothers over their caste. All the applicants then pelted stones on the houses of the informant and his brothers. Admittedly, there is a long standing dispute between the two families. When the informant and his brothers were very much in the close by of the applicants, it does not stand to reason that applicants would pelt stones on their homes but not at them. We have every reason to observe that the F.I.R. might have been lodged in relation to no incident at all.

10. Even if we accept the averments in the F.I.R. and the statements of the witnesses to be prima facie true, it may be an offence within the meaning of Section 3(1)(s) of the S.C.S.T. Act, which reads thus :-

“3. Punishment for offences atrocities -

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;”

11. The alleged offence took place in the agricultural field belonging to the informant by little past 09:00 p.m. Except the informant, his family members and other brothers no one else was present there. In case of **Hitesh Verma Vs. State of Uttarakhand, (2020) 10 SCC 710** it has been observed as under :-

“9. The long title of the Act is to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts and Exclusive Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

10. The Act was enacted to improve the social economic conditions of the vulnerable sections of the society as they have been subjected to various offences such as indignities, humiliations and harassment. They have been deprived of life and property as well. The object of the Act is thus to punish the violators who inflict indignities, humiliations and harassment and commit the offence as defined under Section 3 of the Act. The Act is thus intended to punish the acts of the upper caste against the vulnerable section of the society for the reason that they belong to a particular community.

11. The substituted corresponding provision is Section 3(1)(r) which reads as under:

“3(1)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;”

12. *The basic ingredients of the offence under Section 3(1)(r) of the Act can be classified as “1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and 2) in any place within public view”.*

13. *The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that respondent No.2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that respondent No.2 is member of Scheduled Caste.*

14. *Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration*

*before this Court in the judgment reported as Swaran Singh & Ors. v. State through Standing Counsel & Ors.*⁵. The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view.

12. In view of aforesaid legal proposition, it can only be observed that the offence in question did not take place in public view and therefore, it would be an abuse of process of Court if the applicants are directed to stand trial for the offence punishable under the S.C.S.T. Act. So far as regards offences punishable under the I.P.C. are concerned, it has already been observed that the case as has been averred in the F.I.R. that the applicants pelted stones on the houses of the informant and his brothers, does not stand to reason. If there was such an enmity, the applicants would have pelted stones at them and not on their houses. In view of a long standing dispute between the two families and the incident not to have been reported to the police immediately, while it could have been reported on the telephone, we are of the view that it is a fit case to exercise our jurisdiction under Section 482 of Cr.P.C. to grant the applicants relief.

13. In view of above, criminal application succeeds. Same is allowed in terms of prayer clauses (B) and (B-1).

SSD (SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)