

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3490 OF 2022

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| 1. | Shri Nisar Mohammed Pathan |] | |
| | Age: 52 years, Occu. Business, |] | |
| | R/o 100 ft Road, Latif Pathan Colony, |] | |
| | Sangli, Tal. Miraj, Dist. Sangli. |] | |
| 2. | Shri Salim Makbul Mujawar |] | |
| | Age: 40 years, Occu. Business, |] | |
| | R/o. Tasgavkar Plot, Gar Peer Road, |] | |
| | Sarv Dham Chowk, Ganesh Nagar, |] | |
| | Tal. Miraj, District Sangli |] | Petitioners |

versus

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| 1. | The State of Maharashtra |] | |
| | (C.R. No.750 of 2021 |] | |
| | registered with Sangli City Police Station) |] | |
| 2. | Shri Nagnath Maragu Gondhale, |] | |
| | Age: 60, Occu. Labourer, |] | |
| | R/o Ganesh Nagar, Godhale Plot, |] | |
| | Sarvdham Chowk, Sangli, |] | |
| | Tal. Miraj, District – Sangli. |] | Respondents |

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Mr. Siyal F. Magdum i/b Mr. Umesh R Mankapure, Advocate for Petitioners.

Mr. Pankaj Deokar, A.P.P., for Respondent No.1 – State.

Ms. Rakshita R. Shinde, Advocate for Respondent No.2 (appointed through Legal Aid).

Ms. Reshma Khot, P.S.I, Sangli City Police Station, Sangli present.

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CORAM : ABHAY J. MANTRI, J.
DATE : OCTOBER 08, 2026

ORAL JUDGMENT:

1. **Rule.** Rule made returnable forthwith and heard finally with the consent of the learned Advocates for the Petitioners, learned A.P.P. for Respondent No.1 – State and learned Advocate for Respondent No.2.

2. The Petitioners have invoked the jurisdiction of this Court seeking quashing of the First Information Report bearing C.R. No.0750 of 2021, (for short, “*F.I.R.*”) registered (on 17th November, 2021) with Sangli City Police Station, District Sangli, for the offences punishable under Sections 143, 149, 427, 504 and 506 of the Indian Penal Code, 1860 (for short, “*I.P.C.*”), and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, “*the Atrocities Act*”), as well as Special Case No. 1927 of 2022/201 of 2022 arising out of the said F.I.R. and pending before the learned Sessions Court, Sangli.

3. On 17th November, 2021, Respondent No.2 lodged a report against the Petitioners and six others, alleging that they had arrived at the property in his possession, asked them why a corrugated iron compound wall had been erected, and demolished the same. It was further alleged that the Petitioners abused him with caste-based slurs and picked up a quarrel with them. They also threatened him. Based on the said report, the Police

registered an offence vide C.R. No. 0750 of 2021. Upon completion of the investigation, the Investigating Officer filed the charge-sheet before the learned Trial Court, which came to be numbered as Special Case No.1927 of 2022/201 of 2022.

4. Learned Advocate for the Petitioners vehemently contended that, *prima facie*, the allegations made in the F.I.R. do not constitute an offence punishable under the Atrocities Act. He submitted that the Police have not recorded the statements of any independent witness and that the statements of those whom the police have recorded are family members of Respondent No.2. Therefore, their statements are not sufficient to attract the ingredients of Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Atrocities Act. He further argued that Petitioner No.1, Nisar Mohammed Pathan, purchased the property in question from Gajanan Gondhale, brother of Respondent No.2, under an Agreement dated 9th June, 2020, and that the Petitioners have been in possession of the property since then. Regular Civil Suit No.353 of 2021 is also pending between Petitioner No.1, Respondent No.2, and others in respect of the property in question. Therefore, he contended that the dispute between the parties is essentially civil in nature and that no offence, as alleged in the F.I.R., is made out against the Petitioners. He therefore urged this Court to quash and set aside the F.I.R., the charge-sheet, and the consequent Special Case, insofar as the Petitioners are concerned. To buttress

his submission, he relied on the judgment in *Hitesh Verma v. State of Uttarakhand and another*¹ and drew my attention to paragraphs 13, 14, 18, and 23 of the said Judgment.

5. On the other hand, learned A.P.P. and learned Advocate for Respondent No.2 strenuously opposed the Petition, contending that, in the complaint, Respondent No.2 has specifically stated that the Petitioners abused him by using caste-based slurs and, therefore, the offences punishable under the Atrocities Act are, *prima facie*, made out. However, they fairly submitted that, except Respondent No.2 and his family members, none of the independent witnesses has stated that the Petitioners abused Respondent No. 2 by using caste-based slurs.

6. Learned Advocate for Respondent No.2 further submitted that, after Respondent No.2 lodged the F.I.R., Petitioner No.1 filed a Civil Suit before the learned Civil Judge, Junior Division, Sangli. Learned A.P.P. and learned Advocate for Respondent No.2 drew my attention to the statements of witnesses, namely, Fazal Umar Pathan, Akash Nagnath Gondhale, Dattatray Nagnath Gondhale and Mangal Nagnath Gondhale, contending that their statements corroborate the allegations made in the F.I.R. They, therefore, submitted that no case is made out by the Petitioners for quashing the F.I.R. and the charge-sheet. Accordingly, they urged dismissal of the Petition.

¹ (2020) 10 Supreme Court Cases 710
Shailaja

7. Having heard the rival contentions of the parties and having gone through the record, it appears that Respondent No.2, in the F.I.R., has alleged that the Petitioners abused him by using caste-based slurs. However, none of the independent witnesses has corroborated the allegation to establish that the alleged incident occurred in any place within public view. Witnesses Akash Nagnath Gondhale, Dattatray Nagnath Gondhale and Mangal Nagnath Gondhale are the sons and wife of Respondent No.2, respectively. Fazal Umar Pathan is an independent witness. However, in his statement, he has not stated that the Petitioners abused Respondent No.2 by using caste-based slurs. His statement only indicates that, on the date of the incident, while he was proceeding along a 100-foot road near the spot of the incident, he saw the Petitioners, along with others, demolishing the tin sheet compound wall. Similarly, witnesses Akash Nagnath Gondhale, Dattatray Nagnath Gondhale, and Mangal Nagnath Gondhale stated in their respective statements that the Petitioners, along with others, arrived at the property in question and demolished the tin sheet compound wall. They have also stated that the Petitioners abused Respondent No.2 by using caste-based slurs.

8. Thus, on a bare perusal of the F.I.R. and the statements of the witnesses, it *prima facie* appears that Respondent No.2 and his family members have alleged that the Petitioners abused Respondent No.2 by using

caste-based slurs. However, no independent witness or members of the public corroborate their statements. None of the independent witnesses stated that they heard that the Petitioners abused Respondent No.2 by using caste-based slurs. Therefore, in view of the law laid down in **Hitesh Verma** (supra), it cannot be said *prima facie* that the alleged incident took place in a place within public view. Consequently, the ingredients of the offences punishable under the provisions of the Atrocities Act are not attracted. However, the allegations of commission of offences punishable under the relevant provisions of the I.P.C. are, *prima facie*, made out from the contents of the complaint.

9. Apart from the above, it further appears that a Civil Suit is pending between the parties in respect of the property in question. It is also pertinent to note that Petitioner No.1 had lodged a complaint against Respondent No.2 and his family members on 13th and 16th November 2021, alleging that Respondent No.2 had threatened to implicate him in a false case under the Atrocities Act and had also threatened to kill him. The concerned officer of the Sangli City Police Station acknowledged the complaint dated 13th November 2021.

10. In view of the aforesaid discussion and the law laid down in **Hitesh Verma** (supra), *prima facie*, it appears that the ingredients of sections 3(1)(r) and 3(1)(s) of the Atrocities Act are not attracted against the

Petitioners. Consequently, the ingredients of Section 3(2) (va) of the Atrocities Act also do not apply to the Petitioners. No *prima facie* material on record demonstrates that the alleged incident took place in a place within public view to attract the provisions of Sections 3(1)(r) and 3(1)(s) of the Atrocities Act.

11. On the other hand, there is *prima facie* material on record indicating the commission of the offences punishable under Sections 143, 149, 427, 504 and 506 of the I.P.C. against the Petitioners and other accused persons. Therefore, in my view, it would not be proper to continue proceedings against the Petitioners for the offences punishable under Sections 3(1)(r), 3(1) (s), and 3(2)(va) of the Atrocities Act. Continuation of the proceedings against the Petitioners for the said offences would amount to an abuse of the process of law and would not serve the ends of justice. It would, therefore, be appropriate to exercise the inherent powers of this Court to quash the F.I.R. and the consequential charge-sheet, to the extent of the offences punishable under Sections 3(1) (r), 3(1) (s) and 3(2)(va) of the Atrocities Act. However, insofar as the offences punishable under Sections 143, 149, 427, 504 and 506 of the I.P.C. are concerned, the Petitioners have failed to make out a case for invoking the inherent powers of this Court.

12. As a result, ***the Petition is partly allowed.*** The offences punishable under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Atrocities Act are hereby

quashed and set aside insofar as the Petitioners are concerned, i.e. Accused Nos.1 and 2. Consequently, the said offences stand quashed from C.R. No. 0750 of 2021 and Special Case No.1927 of 2022/201 of 2022 pending before the learned Sessions Judge, Sangli, insofar as the Petitioners are concerned.

13. ***The Petition stands dismissed*** insofar as the offences punishable under Sections 143, 149, 427, 504 and 506 of the I.P.C. are concerned. The proceedings in respect of the said offences shall continue in accordance with law.

14. The Rule is partly made absolute in the aforesaid terms. No order as to costs.

15. In view of quashing of the offences punishable under the Atrocities Act, the learned Sessions Judge, Sangli, shall take appropriate steps to assign the matter to the Court having jurisdiction to try and entertain the offences punishable under the I.P.C.

16. It is clarified that the observations made in this order are *prima facie* in nature and shall not come in the way of the Petitioners during the trial. The Trial Court shall decide the matter on its own merits and in accordance with law, without being influenced by the observations made herein.

17. The concerned Court be informed accordingly.

18. Ms. Shinde was appointed through the Legal Services Authority to represent Respondent No.2. Her fees be quantified in accordance with the provisions of the Legal Services Rules.

19. *The Petition stands disposed of in the above terms.*

(ABHAY J. MANTRI, J.)