

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1221 of 2015

1. Nehru Lal Dewangan S/o Pyare Lal Dewangan Aged About 40 Years
R/o Village Chandrashekharpur (Edu), Police Station Chhal, Civil &
Rev. Distt. Raigarh, Chhattisgarh.
2. Ramesh Agrawal S/o Late Tarachand Agrawal Aged About 51 Years
R/o Village Navapara, Police Station Chhal, Civil & Rev. Distt.
Raigarh, Chhattisgarh. **--- Petitioners**

Versus

State of Chhattisgarh through Police of Police Station A J A K,
Chakradhar Nagar, Raigarh, Distt. Raigarh, Chhattisgarh.

--- Respondent

For the applicants : Mr. Y.C. Sharma, Advocate.

For the Respondent: Mr. U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

11.12.2015

1. Apprehending arrest in connection with Crime No. 20 of 2015
registered at Police Station AJAK, Chakradhar Nagar, Raigarh,
District Raigarh, Chhattisgarh, for the offences punishable under
Sections 294, 506, 384 of IPC and Section 3(i)(xi) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. As per the prosecution case, a marks sheet was issued to one
Vasudev Dubey, student of Class-I wherein it was written that he is
mentally retarded. Therefore, the father of student namely Onkar
Prasad objected to it and made a report to the higher authorities.
Subsequently the news was published on 26.09.2015 in the daily
newspapers Dainik Bhaskar and Patrika that without inspection, the
boy has been shown to be mentally retarded. The applicants who
were reporters of the newspapers of Dainik Bhaskar and Patrika went
to the school wherein the complainant was working as Assistant

Teacher and demanded money in lieu of the mistake in the marks sheet and having refused, she was abused. Therefore, a written report was made by the complainant on 26.09.2015.

3. Learned counsel for the applicants submits that the report was made on 26.09.2015 and by that date, the publication was already made in the news paper therefore, the the report of complainant that the money was demanded and on being refused, the complainant was abused in the name of caste is prima facie false. He further submits that because of the fact that the news was published, as an after-thought the report was made. Therefore, it is submitted that no offence can be attributed to the applicants.
4. Per contra, learned State Counsel opposes the prayer for grant of bail and submits that the FIR allegations are supported by the statements of Yuvraj Kumar Patel and Smt. Fekan Bai.
5. I have perused the case diary statements and other documents.
6. The report to the incident is stated to be filed on 26.09.2015. In the report, two incidents of 22.09.2015 and 23.09.2015 have been mentioned. Incident of 23.09.2015 pertains to these applicants. Another report of 29.09.2015 is also enclosed. A perusal of the the statements of Yuvraj Kumar Patel, headmaster and Fekan Bai, Assistant Teacher do not support the allegatios of abusing the complainant in the name of caste. It appears that the report was made on 26.09.2015 and by the said date, the publication as appears was already made. Further if the statements of the witnesses Yuvraj Patel and Fekan Bai are read together, it appears that these witnesses have not categorically supported that the complainant was abused in the name of caste, therefore, the bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would not apply as the intention to humiliate the complainant does not appear to attract the rigor of provisions of the Act.
7. Thus taking into totality of the facts and circumstances and on

perusal of the case diary statements, I am inclined to extend the benefit of provisions of section 438 Cr.P.C., to the applicants.

8. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the officer arresting them or the concerned Investigating Officer. The applicants shall also abide by the following conditions :-

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any police officer;
- (iii) that they shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**

Rao

considering the nature of allegations, prima facie, it appears that intention do not appear to attract the rigor of provisions of SC/ST Act and bar of Section 18 would be attracted.