

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

Criminal Writ Petition No.119 of 2015

Kranti s/o Laxmanrao Dhanke
And Another. **.. Petitioners.**

Versus

The State of Maharashtra
And Another. **.. Respondents.**

Shri. V.D. Salunke, Advocate, for petitioners.

Shri. S.B. Pulkundwar, Additional Public Prosecutor, for
respondent No.1.

Shri. D.Y. Nandedkar, Advocate, for respondent No.2.

With

Criminal Application No.536 of 2015

Vishwanath S/o Bhanudas Bhojane
And Others. **.. Applicants.**

Versus

The State of Maharashtra
And Another. **.. Respondents.**

Shri. S.S. Choudhari, Advocate, for applicants.

Shri. S.B. Pulkundwar, Additional Public Prosecutor, for
respondent No.1.

Shri. D.Y. Nandedkar, Advocate, for respondent No.2.

**CORAM: T.V. NALAWADE
INDIRA K. JAIN, JJ.**

DATE : 23rd APRIL 2015

ORDER:

1) Both the applications are filed for the relief of quashing of FIR No.10/2015 registered in Tuljapur Police Station. Crime is registered for offences punishable under section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and also the provisions of the Indian Penal Code like sections 149, 427, 324, 325 etc. In the first proceeding relief is claimed for quashing of the FIR only in respect of the offences registered under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. In the second proceeding relief is claimed for quashing of the entire F.I.R. Both the sides are heard.

2) The crime is registered on the basis of report given by Chandrakant Kamble of Sindphal, Tahsil Tuljapur, District Osmanabad. He lives in Bhimnagar locality where there are 70 to 80 houses. On 13-1-2015 when he was plying his auto rickshaw on Sindphal - Tuljapur road, at

about 6.00 p.m. quarrel started when a lady who was travelling in the auto rickshaw felt that Sukant, brother of Chandrakant was misbehaving with her. The persons from the rickshaw made the complainant to stop the rickshaw near Dhaba, hotel by name Nandanwan. This Dhaba belongs to applicant Abasaheb Kapse. The applicant and others gathered there. When the lady made complaint about the conduct of Sukant, brother of Chandrakant, he was assaulted by fist blows and kicks. On that occasion applicant Abasaheb and his employees gave abuses by taking name of the caste which is scheduled caste by calling him as Dhedgya (धेडग्या) and Mahar (महार). After the incident Chandrakant took Sukant to his house.

3) At 8 p.m. on the same day the applicants and others gathered in front of house of Chandrakant and they started pelting stones on the house of the complainant. They were giving abuses by taking name of the caste in the aforesaid manner and abuses in filthy language by taking name of mother were also given. One Anandibai Kamble was assaulted with stick by one Sudarshan Pandhare. One Jitendra Dhale was assaulted by

Ajay Misal by using axe. These applicants virtually pulled down the huts of one Dayanand Thorat and Sindubai Siddhganesh. They destroyed motor cycles of Gautam Siddhganesh and Anant Dhale, who were living in the locality. Many persons from the community of the complainant were assaulted. In respect of this incident Chandrakant gave report on 14-1-2015 and crime came to be registered at 00.45 hours. The incident took place on night between 13-1-2015 and 14-1-2015.

4) Learned counsel for the applicants from the first proceeding submitted that prior to registration of present crime, Crime No.10, Crime No.9 was registered against Sukant and Chandrakant Kamble on the basis of report given by one lady for offences under sections 354, 354-A, 34 etc. of the Indian Penal Code. Copy of the FIR shows that it was registered at 00.10 hours on 14-1-2015 in which allegations are made by the lady about misconduct of Sukant. Learned counsel for the applicants submitted that only to give counter-blast to the crime registered against Chandrakant and his brother Sukant, false report was given.

5) This Court has gone through the papers of investigation which include spot panchanama. It shows that damage was caused to many houses and one motor cycle was destroyed. There are stones appearing in the photographs showing that stones were pelted. The incident took in night hours and it is clear that the applicants created terror, atmosphere of fear in the entire village.

6) Learned counsel for the applicants from the first proceeding submitted that even if the allegations made are accepted as they are, crime could not have been registered for offences punishable under section 3(1) (r), (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. He submitted that, it cannot be said that the incident took place within public view. This submission is not at all acceptable. The incident took place in front of the houses of many persons from the complainant community. Many persons from the side of the applicants were involved. Specific abuses were given and they are mentioned in the F.I.R. It cannot be said that the incident did not take place within public view as

required by the provisions of the special enactment.

7) The record collected is sufficient to show that damage was caused to the property of the complainant and others who have given statements. In view of these circumstances it is not possible to quash First Information Report or any part of the F.I.R.

8) In the result the Criminal Writ Petition and the Criminal Application stand dismissed.

Sd/-
(INDIRA K. JAIN, J.)

Sd/-
(T.V. NALAWADE, J.)

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