

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

Criminal Application No.1905 of 2011

Premila d/o Kashinath Mathpati. .. **Applicant.**

Versus

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

Shri. K.T. Shirurkar, Advocate, holding for Shri. S.R.
Kolhare, Advocate, for applicant.

Shri. P.N. Mule, Additional Public Prosecutor, for
respondent No.1.

Shri. A.B. Dhongade, Advocate, for respondent No.2.

CORAM: T.V. NALAWADE, J.

DATE : 11^h JUNE 2015

ORDER:

1) The application is filed for the relief of quashing of the proceeding of R.C.C. No.130 of 2010 which is pending in the Court of the Judicial Magistrate, First Class, Vasmat, Tahsil Vasmat, District Hingoli and which is filed for offences punishable under sections 420, 468, 471, 202, 34 etc of the Indian Penal Code. Both the sides are heard.

2) The main contention of the applicant, accused is that in view of the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of), Caste Certificate Act, 2000 and the Rules made thereunder, cognizance of the matter could not have been taken by the Judicial Magistrate as the complaint is not filed by the Caste Scrutiny Committee or at the instance of the Caste Scrutiny Committee. There is allegation against the present applicant that when she is belonging to Jagnam, OBC, shown at Sr. No.58 of the Government Resolution, she represented herself as candidate of Scheduled Caste and obtained false certificates from Talathi and Tahsildar. It is contended that the authority did not ask to produce school record to ascertain as to whether she belongs to Scheduled Caste and the certificate was issued. It is contended that the caste certificate was not sent by the employer, one of the accused, for verification as he knows that the applicant does not belong to Scheduled Caste. There is allegation that by using such certificate the applicant obtained

appointment on the post of Clerk which was reserved for Scheduled Caste.

3) It is contended that the complainant came to know that this fraud was played by accused No.1, present applicant in the year 2008 and then he approached the authority for taking action. It is contended that the authority did not take action and so he was constrained to approach the Court. In a private complaint filed by the respondent-complainant he had requested to make order under section 156(3) of the Code of Criminal Procedure and the Magistrate directed to make investigation under section 202 of the Code. The Magistrate then made reasoned order and issued process for the aforesaid offences against the present applicant.

4) The submission made by the learned counsel for the applicant that only the Caste Scrutiny Committee can take action is not acceptable. The aforesaid offences are cognizable in nature. There is allegation that false record is created to show that the applicant belongs to Scheduled Caste. There is material to make out a case in

that regard. Thus it is not possible to quash the proceedings of the case filed against the present applicant.

5) In the result, the application stands dismissed.

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

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