

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

CRIMINAL APPLICATION NO. 2382 OF 2015

VISHWANATH GOPINATHRAO PURI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. S. G. Dodya
APP for Respondents: Mr. S. D. Kaldate
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CORAM : A.V. NIRGUDE &
V.K. JADHAV, JJ.

Dated : October 27, 2015

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PER COURT :-

1. The applicant belongs to Nomadic Tribe-B. He obtained caste certificate from Tahsildar and then his caste certificate was sent for scrutiny. Scrutiny committee rejected the caste claim of the applicant on the ground that some documents pertaining to his near relatives mentioned applicant's caste as Hindu and not a tribe. However, the learned Member of caste scrutiny committee, by order dated 07.07.2009, directed the Tahasildar to initiate criminal proceedings against the applicant for offence punishable under Section 11(1) and (2) of the *'Maharashtra Schedule Caste, 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.'* Accordingly, FIR was registered on 29th December, 2009 against the applicant and even a charge sheet was filed. In the mean time, the applicant challenged the findings recorded by caste

scrutiny committee before the High Court in writ petition No. 593 of 2010 and vide order dated 25th October, 2010, this Court set aside the findings recorded by caste scrutiny committee and remanded the case back to the committee. The caste scrutiny committee then re-examined the case and by order dated 3rd September, 2013, validated the tribe claim of the applicant. In view of these developments, the applicant apparently was entitled to get discharged from the case initiated against him earlier. The applicant made such application to the learned Magistrate, but the learned Magistrate opined that whatever happened before the caste scrutiny committee and the High Court, the material on record was sufficient to constitute offence and therefore, the applicant would not be discharged. This order ought to have been challenged before the regular revisional court. However, it appears that the applicant's legal advisors were more eager to come before this Court. Accordingly, we are now examining whether the applicant deserved discharge.

2. We perused record meticulously and noticed that in the first order passed by caste scrutiny committee dated 07th July, 2009, there is no clear finding recorded that *prima facie* offence under Section 11 seemed to have been committed and therefore, prosecution was necessary. The committee did not come to a conclusion even *prima facie* that the applicant furnished false information or filed false statement or document or had used other fraudulent means. We have discussed the reason as to why the

applicant's tribe claim was rejected then. It was rejected mainly because in some recent documents, the applicant's relatives' caste was mentioned as Gosavi and in earlier documents, caste of the applicant's relatives is mentioned as Hindu. Hence, on the face of it, the allegation, that by furnishing false information, the applicant obtained caste certificate, is not plausible. The learned Magistrate ought to have discharged the applicant at least because the entire cause for starting a prosecution had come to an end. The learned Magistrate ought to have discharged the applicant also because the finding recorded by caste scrutiny committee was set aside by the High Court and therefore, there was no basis for prosecuting the applicant. Despite these clear circumstances, the learned Magistrate committed a grave error in continuing with the trial of the applicant. We hereby express our anguish over the incidents of this case. We also direct that a copy of this order be sent to the learned Magistrate. We do not intent to start any action against the learned Magistrate for committing judicial error in appreciating the case.

3. The application is allowed in terms of prayer clause "C". Criminal Application stands disposed of.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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aaa/-