

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

CRIMINAL WRIT PETITION NO. 923 OF 2015

SANJAY HIMMAT BAGAL AND ORS
VERSUS
THE STATE OF MAHARASHTRA & ORS

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Advocate for Petitioners : Mr. R.S. Pawar
APP for Respondents: Miss. S.S. Raut
Advocate for Respondent 3 : Mr. P.B. Patil

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CORAM : A.V. NIRGUDE & V.K. JADHAV, JJ.

Dated: October 27, 2015

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PER COURT :-

1. On 28.6.2015 the incident took place. One Anil Abhimanyu Bhil/Sonwane lodged complaint against the present petitioners alleging that they had assaulted him and caused injuries, etc. Crime bearing No.53/2015 was registered against the petitioners. On 1.7.2015 police recorded additional statement of complainant Anil. Even in this statement, complainant did not mention that petitioners/accused insulted them in public on the basis of their caste. On 8.7.2015 the investigation took a different turn. On this day for the first time witnesses stated to the police in their supplementary statements that Anil was abused on the basis of the caste. It is, thereafter, the offence punishable under section 3 (1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 was added. On the face of it, facts clearly established that subsequent allegations constituting ingredients of offence punishable u/s 3 (1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 are trumped up charges. We are not disturbing the offence which was

registered initially against the petitioners, but we are inclined to set aside the added charge punishable u/s 3(1) (x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 in Crime No.53/2015 registered with Dhondaicha Police Station. Petition to that extent will succeed. There shall be order in terms of prayer clause 'C'.

2. Writ Petition is disposed of.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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aaa/-