

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

CRIMINAL APPLICATION NO.5604 OF 2015

1. Satish s/o Bhanudas Shinve,
Age 50 years, Occu. Retired
(Police), R/o Prashanti Nagar,
Jalna, Taluka and Dist. Jalna
2. Chhaya d/o Laxman Bhujbal,
Age 47 years, Occu. Service,
As a Headmistress R/o As above
3. Mohammad Javed s/o Mohd. Edris,
Age 40 years, Occu. Business,
R/o Pivala Bangala, Opp. Ambar
Hotel, Jalna, Taluka and District
Jalna
4. Siraj Khan s/o Jafar Khan,
Age 36 years, Occu. Business,
R/o J.E.S. College, road,
Jalna, District Jalna ..Applicants

Versus

- . The State of Maharashtra,
through Police Station Officer,
Sadar Bazar Police Station,
Taluka and District Jalna ..Respondent

Mr P.P. More, Advocate for applicants
Mrs M.A. Deshpande, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 28th October 2015

PER COURT

Heard.

2. The applicants herein are seeking pre-arrest bail in Crime
No.260 of 2015 registered at Sadar Bazar Police Station, Jalna for the
offences punishable under Sections 353, 504, 506 read with Sec.34 of

Indian Penal Code and under Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on 2nd October 2015, for an incident took place on 29th September 2015.

3. It is the case of the prosecution that the applicants herein entered the school where the complainant was an in charge Headmistress and they made caste based insulting attributions against the complainant, which resulted into registration of crime.

4. Mr More, learned Counsel for the applicants, while making out the case for grant of pre-arrest bail has invited attention of this Court to the initial complaint dated 17th September 2015 preferred by applicant No.2. According to him, she was put into charge of Headmistress of the school by the order of Education Officer which is placed on record at page 24-B dated 29th August 2015. He would then urge that in view of said order the applicant No.2 was entitled to work as Headmistress which was obstructed by the complainant and other persons, who claimed to be office bearers resulting into filing of said offence, punishable under Sections 353, 186 read with Sec.34 of the Indian Penal Code. According to him, in view thereof and particularly upon consideration of the contents of first information report, false implications cannot be ruled out. According to him, the first information report is filed after a period of four days for which there is no explanation and as such, the application of the applicants needs to be considered favourably.

5. Mr M.S. Karad, learned Counsel for the complainant has assisted the learned Additional Public Prosecutor Mrs Deshpande, who strenuously urged that in view of bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the applicants are not entitled for pre-arrest bail. In addition to above, according to her, the instance as is narrated in the complaint is required to be considered as true and the conduct of the applicant No.2 - Headmistress is required to be viewed in the light of her discipline to be maintained in educational institution. She would further urge that the applicants No.1, 3 and 4 have no concern with the institution, however, acted as muscle men at the behest of applicant No.2 for taking over charge of the institution. According to her, there is prima facie evidence against the applicants and as such, the application is liable to be rejected.

6. It is not in dispute, upon perusal of the application that Crime No.248 of 2015 was registered on 17th September 2015, for the offences punishable under Sections 353, 186 and 34 of the Indian Penal Code against accused mentioned therein namely Inderseeth Tawrawala, Rijtesh Kamad and Meghraj Choudhari, who claimed to be office bearers of the institution in which applicant No.2 is given posting as in charge Headmistress pursuant to the order of Education Officer. One thing clearly appears from the record that the recognised educational institution is required to abide by the orders of the Education Officer in view of the provisions of Secondary School Code and Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act and management was duty bound to honour order

which appears to be flouted resulting into registration of above referred crime. Apart from above, it is required to be noted that the first information report in the present case is lodged after four days and for such a delay, no explanation whatsoever is furnished or coming on the record.

7. Apart from above, perusal of the investigation papers reflects that the witnesses have largely improved the case that was narrated by the complainant in the first information report.

8. In the light of above, it can be easily inferred that the applicants herein appear to have been falsely implicated in the crime in question, particularly in the background of the dispute, as is referred to herein above in the matter of taking over charge of post of Headmistress.

9. In view of above background, in my opinion, it will be appropriate to protect the applicants. Hence, I proceed to pass the following order.

(I) In the event of their arrest, the applicants shall be released on bail in Crime No.260 of 2015 registered at Sadar Bazar Police Station, Jalna for the offences punishable under Sections 353, 504, 506 read with Sec.34 of Indian Penal Code and under Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, upon furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty five thousand) with one surety by each of them.

(II) The applicants shall attend the concerned Police Station on 2nd, 3rd and 4th November 2015 between 10.00 a.m. and 11.00 a.m. and thereafter as and when called by the Investigating Officer.

(III) As undertaken by Mr More, learned Counsel for the applicants, the applicants No.1, 3 and 4 shall keep themselves away from the said educational institution i.e. Saraswati Shishuvihar and Primary School, Jalna, till conclusion of the trial,

10. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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