

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

CRIMINAL APPLICATION NO. 6104 OF 2015

Manik Bhimrao Todkar & Anr.

... Applicants

VERSUS

The State of Maharashtra.

... Respondent

.....
Mr S. B. Bhapkar, Advocate for applicants
Mr U. S. Mote, APP for respondent/State
.....

CORAM : **INDIRA K. JAIN, J.**
DATE : **4TH DECEMBER, 2015.**

PER COURT:

. Here is an application for pre-arrest bail in Crime No. 98 of 2015 registered at Kaij Police Station, Dist. Beed for the offences punishable under Sections 3(i)(viii) and 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act read with 34 of the Indian Penal Code.

2. Heard Mr S. B. Bhapkar, learned counsel for applicants and Mr U. S. Mote, learned APP for respondent/State.

3. Complainant Raghunath Laxman Galphade was serving as Laboratory Assistant with Mahatma Jyotiba Phule Shikshan Prasarak Mandal, Kaij. Applicant No. 1 is Secretary and Applicant No. 2 is Headmaster of the School. Complainant was reverted to the post of Class-IV category.

4. Incident occurred on 8th August, 2015. According to complainant he had been to the school to join his duties. He submitted an application to applicant No. 2 to allow him to join duties. It is alleged that applicant No. 2 instead of accepting his application abused him in the name of caste, did not allow him to join and removed him from the premises.

5. Learned counsel for applicants submitted that applicant No.1 is not concerned with the alleged incident. So far as applicant No. 2 is concerned, learned counsel submits that there is service dispute between applicants and complainant. It is alleged that, complainant was used as a tool by the earlier management and at the behest of earlier management they have been falsely involved.

6. Another contention raised on behalf of applicants is that since long they are attached to the institution and they have earned

good reputation. Applicant No. 2 would retire in 2017 and complainant is going to retire after two months. Considering the clean record of applicant No. 2 throughout it is submitted that he be also protected.

7. It can be seen from FIR that applicant No. 1 is not named and no role is attributed to him. He was not present at the time of incident. From FIR involvement of applicant No. 1 is not at all made out.

8. So far as applicant No. 2 is concerned specific role is attributed to him in FIR. Two staff members of the same school who are working under applicant No. 2 have supported the allegations in FIR. FIR and statements of witnesses show *prima facie* involvement of applicant No. 2 in the commission of crime. In respect to applicant No. 2 this Court finds that bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would be attracted and applicant No. 2 would not be entitled to the protection.

9. In the result, criminal application needs to be partly allowed. Hence the following order.

ORDER

- (i) Criminal Application No. 6104 of 2015 is partly allowed.
- (ii) In the event of arrest of applicant No. 1 Manik s/o Bhimrao Todkar in Crime No. 98 of 2015 registered at Kaij Police Station, Dist. Beed for the offences punishable under Sections 3(i)(viii) and 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act read with 34 of the Indian Penal Code, he be released on bail on his furnishing PR and SB of Rs. 15,000/- (Rupees Fifteen Thousand) each.
- (iii) He shall not tamper with the prosecution evidence and shall make himself available as and when required by the Investigating Agency.
- (iv) Criminal Application of applicant No. 2 Ramdhan s/o Sambhaji Dapkar stands rejected.

[INDIRA K. JAIN, J.]