

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 3705 OF 2013

Tanaji Virupaksh Swami ... Petitioner.

V/s.

The State of Maharashtra ... Respondent.

Mr. C. G. Gavnekar a/with Mr. Hiranandani, Advocate for the
Petitioner.

Ms. S. V. Gajare, APP for the Respondent- State.

CORAM : A. V. NIRGUDE, J.

DATED : 20th NOVEMBER, 2015

P.C. :

This writ petition challenges concurrent findings recorded by the courts below that the material placed before the court against the petitioner is sufficient to frame charge against him. The complainant lodged his compliant, stating therein that the petitioner- accused came to his school with a plea that he belonged to schedule caste and obtained an employment reserved for a schedule caste. He further stated that subsequently, the complainant verified the petitioner's claim being a schedule caste and found independently a document which depicted the petitioner's case as "Hindu Maratha". In view of this, the complainant asserted that the petitioner cheated him. An investigation was conducted. It

came on record of the police that the complainant himself had earlier filed an affidavit, stating therein that the petitioner did not belong to schedule caste and did not obtain employment reserved for a schedule caste. It is thus clear even to the investigating officer that the complainant was making contrary statements. Besides, when the petitioner's caste certificate was verified by the Caste Scrutiny Committee, it did not mention what caste to be taken against him. In view of these facts the courts below and even investigating officer ought to have realized that in the light of the evidence collected against the petitioner, no offence is made out against him and the investigating officer ought to have sent a report that no offence is found out or at least, at the trial stage or on the revision stage. Such contradictions ought to have been noticed to terminate this proceedings.

The writ petition is allowed.

The impugned orders are set aside. Petitioner stands discharged.

(A.V.NIRGUDE,J.)

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