

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2117 OF 2014

Anil Chavan.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Karan Bhosale i/b Neha D. Bhosale for the Petitioner.

Mrs. M. M. Deshmukh, learned APP for the State.

Mr. Sachin K. Kankal for Respondent No.2.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **February 2, 2015.**

P. C. :

1. Rule. Rule made returnable forthwith. The learned Counsel appearing for the Respondents waive service of the rule. By consent, taken up for final disposal.

2. By this petition under Article 226 of the Constitution of India and under the provisions of section 482 of the Code of Criminal Procedure, 1973, the Petitioner is seeking direction to quash and set aside FIR No.II-31/14 dated 31st May 2014 registered with Turbe MIDC Police Station, Navi Mumbai qua the Petitioner.

3. The above FIR is registered at the instance of Respondent No.2 for the offence punishable under section 3(1) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act, 1989 and also section 7(1)(b) of the Protection

of Civil Rights Act, 1955.

4. In the FIR, Respondent No.2 has claimed that she belongs to Bouddha religion. Respondent No.2 has made allegations against several employees of Hexaware Technologies Limited, where she was employed as software engineer. Nature of allegations is that she was treated badly in the office, she was assigned more work and was made to work hard. So far as the present petitioner is concerned, the only allegation is that he along with other employees gave more work to Respondent No.2 and that once in canteen he referred her as "mad". FIR further shows that 29th April 2014, Parul Bhandari told the Complainant that he had taken entire information regarding the Complainant's complaint at that time the Complainant told him that at present she has no problem from said people.

5. The present petition is filed for quashing mainly on the grounds that the Petitioner belongs to Mahadeo Koli caste which is notified as scheduled tribe and secondly that allegations against the Petitioner are vague. The Petitioner has placed on record at Exhibit-B, the caste certificate issued by SDO, Pachora Division, Pachora. Perusal of the same shows that the Petitioner has been certified to be belonging to Mahadeo Koli caste which is notified as scheduled tribe. The Assistant Commissioner of Police, Turbhe Division, Navi Mumbai has filed an affidavit wherein he has stated that during the course of investigation, the Petitioner has produced

caste certificate of scheduled tribe Mahadev Koli which is verified through SDO, Division Pachora, Dist. Jalgaon and confirmed that the Petitioner is belonging to Mahadev Koli caste. The certificate as well as the assertion made by the State in the affidavit has not been disputed by Respondent No.2. The Petitioner is alleged to have committed an offence punishable under section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also section 7(1)(b) of the Protection of Civil Rights Act, 1955. Section 3 of the SC & ST Act, 1989 deals with the punishment for atrocities against the members of Scheduled Caste or a Scheduled Tribe. This Section opens with the words *“Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,.....”* The facts stated hereinabove unequivocally do show that the Petitioner belongs to the scheduled tribe. As per the provisions of section 3, a person belonging to a Scheduled Caste or a Scheduled Tribe cannot commit an offence as defined in clauses (x) to (xv) of sub-section (1) of section 3. The provisions of section 7(1)(b) of the Protection of Civil Rights Act, 1955 also have no application in the present case. Even the reading of the complaint as it is, does not disclose the commission of any offence as alleged. Here it would be apt to refer to the decision of the Apex Court in R. Kalyani v. Janak C. Mehta [(2009) 1 SCC 516] wherein the Apex Court has laid down the following propositions of law :

- “(1) The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a First Information 12 Report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.
- (2) For the said purpose, the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.
- (3) Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the court shall not go beyond the same and pass an order in favour of the accused to hold absence of any mens rea or actus reus.
- (4) If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue. ”

6. The present case is squarely covered by the above said decision of the Apex Court inasmuch as no offence is disclosed against the Petitioner. In the light of above, rule is made absolute in terms of prayer clause (a). FIR No. II-31/14 is quashed qua the Petitioner only.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]