

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

CRIMINAL APPLICATION NO. 3035 OF 2016

KASHINATH S/O YADAV NIKAM AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr R R Karpe
APP for Respondent : Mr A S Shinde

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CORAM : V.K. JADHAV, J.

Dated: July 18, 2016

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PER COURT :-

1. Heard learned counsel for the applicants and the learned APP for the Respondent-State.
2. Read the application. Perused the investigation papers.
3. On the basis of the complaint lodged by one Sapna Devidas Dhivar on 28.4.2016 Crime no.60/2016 for the offences punishable under sections 143, 147, 149, 452, 323, 506, 354, 295 of Indian Penal Code alongwith section 3(1) (X) of Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1949 came to be registered at Shivoor Police Station, Tq. Vaijapur, District Aurangabad. It has alleged in the complaint that, the applicant Kashinath alongwith two other persons entered in her house, caught hold off her

hands, drag her outside of the house and subjected to beating by fist and kick blows. Furthermore, she was also subjected to abuses on caste basis. It has also alleged in the complaint that, she was also subjected to beating by the applicants no. 2 to 5. On the basis of these allegations, the applicants apprehends their arrest at the hands of the police. This Court by order dated 10.6.2016 extended interim protection to all the applicants.

4. Learned counsel for the applicant submits that, in respect of the said alleged incident on 27.4.2016 father of victim namely Devidas Dhivar lodged complaint in the said police station alleging therein that he was subjected to beating by three persons (other than present applicants) and thereafter the said persons went to his house and beaten his daughter i.e. informant Sapna in Crime No.60/2016 and his wife and also subjected to them abuses and life threat. Learned counsel submits that, on the basis of complaint lodged by Devidas Crime bearing No.59/2016 came to be registered at Police Station Shivoor, however, thereafter on the next day, informant Sapna has lodged the complaint in the same police station about same incident with addition of names of applicants No.1 to 5 and also addition about abuses on caste basis and also about outraging of her modesty. Learned counsel

submits that, in view of the earlier complaint lodged by the father of the victim by way of further complaint false involvement of the applicants in the crime cannot be ruled out.

5. Learned APP appearing for the respondent-State submits that, there are serious allegations made against the applicants and they have not only subjected the informant Sapna with caste abuses but, also outraged her modesty. She was also subjected to beating by all the applicants. Learned APP submits that thereafter, the applicants torn out posters of Dr. Babasaheb Ambedkar and Goutam Buddha from the house of Sapna. Learned APP thus submits that the application is liable to be rejected.

6. In view of the complaint lodged by Devidas Dhivar Crime bearing No.59/2016 came to be registered at Police Station Shivoor. On perusal of the copy of the complaint dated 27.4.2016, it appears that second incident which has taken place in his house wherein his daughter Sapna and wife subjected to abuses and beating, there is absolutely no reference that his daughter Sapna was subjected to abuses on caste basis and further her modesty was outraged by applicant no.1 alongwith co-accused persons. Furthermore,

there is absolutely no reference in the complaint lodged by father Devidas that applicants no.1 to 5 are also involved in the Crime. In fact, after registration of the crime No.59/2016, the Investigating Officer while investigating in the said Crime could have recorded the statement of victim Sapna, however, surprisingly, on the basis in the complaint lodged by victim Sapna, separate crime No.60/2016 came to be registered in the said police station. In view of this possibility of false implication of the applicants in crime No.60/2016 thus cannot be ruled out.

7. In view of the above, interim protection granted by this Court by order dated 10.6.2016 stands confirmed. Criminal Application is accordingly disposed of.

(V.K. JADHAV, J.)

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