

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

**Criminal Application No. 4656 of 2016**

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| District : Beed |
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Raju s/o. Shridharrao Dighole,  
Age : 31 years,  
Occupation : Advocate,  
R/o. Shreenagar, Ambajogai,  
District : Beed. .. Applicant.

**versus**

The State of Maharashtra,  
Through Police Inspector,  
Ambajogai (City) Police  
Station, District : Beed. .. Respondent.

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*Mr. D.B. Thoke, Advocate, for the applicant.*

*Mr. S.M. Ganachari, Addl. Public Prosecutor, for  
the respondent.*

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**CORAM : A.M. BADAR, J.**

**DATE : 16TH SEPTEMBER 2016**

**ORAL ORDER:**

The applicant / accused in Crime No. 91/2016 registered with Ambajogai City Police Station, District Beed, at the instance of Bhimrao s/o. Tikaram Potbhare, for offences punishable under Sections 384, 506 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Castes & Scheduled

Tribes (Prevention of Atrocities) Act, 1989 [For short, "Atrocities Act"], by this application, is seeking pre-arrest bail.

2. Heard the learned Counsel appearing for the applicant / accused. By drawing my attention to legal notices at pages 47 and 50 of the record, the learned Counsel argued that the applicant is an Advocate by profession. In discharge of his professional duty towards his client Mahadev Pandhari Phad, the applicant had issued legal notices to several villagers of village Pimpri, so also to the Collector, Chief Executive Officer and other officers of the State. The learned Counsel by pointing out legal notices, submitted that there was misappropriation of amount of more than Rs. 18,00,000/- while executing the Maharashtra Rural Employment Guarantee Scheme. Though Pimpri to Shiv road was not and is not in existence, work of that road was shown to have been done and the amount of wages were shown as paid to the labourers. Therefore notices were issued. The learned Counsel further submitted that in order to give counter blast, the applicant is falsely implicated in the crime in question. The learned Counsel further argued that sensing the trouble, the applicant himself had immediately lodged report with Police Station, Ambajogai, on 26.04.2016 itself with an apprehension that he may be implicated in false case. Therefore,

in submission of the learned Counsel for the applicant, custodial interrogation of the applicant is not warranted and no prima facie case under the Atrocities Act is made out against him.

3. The learned Addl. Public Prosecutor opposed the application by submitting that the report was lodged by Bhimrao Potbhare on 27.04.2016 itself and subsequently his supplementary statement was recorded and the crime in question came to be registered. It is further argued by the learned Addl. Public Prosecutor, that there are several witnesses to the incident in question apart from one Advocate who also vouch about commission of offence punishable under the Atrocities Act by the present applicant.

4. Perused papers of investigation so also annexures to the application.

5. Initially on 27.04.2016, informant Bhimrao Potbhare lodged a written complaint to Police Inspector of Ambajogai Police Station, with an averment that after receipt of legal notices from the present applicant, he as well as his co-villagers met with the applicant on 26.04.2016. The complainant further reported that when they asked the applicant about the subject matter, the applicant demanded Rs. 10,000/- per person from the complainant as well as his co-villagers by threatening that if the amount is

not paid, then they would land in a big trouble. The complainant further reported that when he told the applicant that they are labourers, the applicant uttered "महारग्या येथे कशाला आलास, तिकडेच माय घाल धेडग्या". It is further averred that the applicant then held the complainant by collar and threatened him that he cannot do anything against the applicant.

6. Record of investigation further shows that thereafter supplementary statement of complainant Bhimrao Potbhare was recorded by Police on 05.05.2016 and than Crime No. 91/2016 came to be registered against him. The allegations are about insult and intimidation to the informant who is belonging to the Scheduled Caste, within a public view, after an attempt to extort sum of Rs. 10,000/- from him as well as similar amount from other villagers.

7. Record of investigation including the FIR as such unerringly points out issuance of legal notices by the applicant to the villagers who had allegedly done labour work under Maharashtra Rural Employment Guarantee Scheme as well as to the officers implementing that scheme. Perusal of those legal notices dated 11.04.2016 annexed with the application goes to show that those were issued by the applicant on instructions of his client Mahadev Phad. Noticees were noticed that work of Pimpri to Shiv road was not at all undertaken but still by showing the work on

paper, an amount of Rs. 18,33,881/- is misappropriated. Labourers of that work were noticed that they are shown as labourers in that work and amount of their wages is shown to have been deposited in their account with Post Office at Ghatnandur. A written reply was sought by this legal notice from alleged labourers as well as public officers by the present applicant.

8. Papers of investigation shows that the informant was one of the noticees. The FIR as well as supplementary statement of the informant shows that on receipt of those legal notices on 15.04.2016, the informant and his associates had been to the Court and met the applicant / Advocate in the Bar Room of the Court.

9. The applicant / Advocate is resident of Ambajogai in Beed District. Noticees, including the informant, appears to be resident of village Pimpri. Notices were on instructions of client of the applicant. Subject matter was misappropriation of funds of the State. As such prima facie there was no reason with the applicant to know about caste of either the informant or his associates who allegedly came to meet him in the Bar Room.

10. Prima facie it appears that there was no reason for the labourers / noticees to meet the

present applicant directly by approaching him in the Bar Room of the Court at Ambajogai. So far as casteist remarks are concerned, allegations are to the effect that on refusal by the noticees and the informant to pay the amount of Rs. 10,000/- per person, the applicant uttered "महारग्या येथे कशाला आलास, तिकडेच माय घाल धेडग्या". As stated earlier and at the cost of repetition, it needs to be stated that there was no reason for an Advocate to know the caste of the person to whom he had issued notice regarding misappropriation of Government fund. The investigator has recorded statements of other Advocates who were present in the Bar Room at the time of the alleged incident. At least six Advocates who were present in the Bar Room have not supported the allegations made by the informant regarding alleged insult or humiliation to the member of Scheduled Caste i.e. to the complainant within a public view. The persons who accompanied the informant are supporting him so also only one Advocate.

11. It hardly needs to be stated that because of receipt of notice from the applicant, the informant and his associates may not have been happy with the applicant. They had no reason to approach the applicant. The possibility of the design to frame the applicant in the crime in question cannot be ruled out as several Advocates who were present in

the Bar Room have not supported the informant, so far as the offence alleged under the Atrocities Act, is concerned. Prima facie no case for the offence under the said Act is made out. That apart, the applicant himself had lodged report against the informant and his associates first in time with categorical averments that in every possibility, he will be framed in false case because of receipt of legal notices issued by him to villagers. Station Diary entry No.23 of 26.04.2016 shows that report of the applicant was received by Police Station at 18.53 hours of that day.

12. In this view of the matter, as no prima facie case for the offence punishable under the Atrocities Act is made out, bar of Section 18 of the said Act is not applicable to the case in hand.

13. Similarly it is highly improbable that the applicant who had issued legal notices to the labourers in the matter of misappropriation of Government fund would demand an amount of Rs. 10,000/- from them to settle the issue. The issue was principally against public officers who had major role in alleged misappropriation.

14. In this view of the matter, custodial interrogation of the present applicant is not warranted.

15. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, in the event of his arrest, be released on bail on his executing P.R. Bond in the sum of Rs. 15,000/- and on furnishing one or more solvent sureties of the like amount.

(c) As conditions of this order, the applicant / accused shall abide by the following directions :-

(i) The applicant / accused shall attend the concerned Police Station on 25th September 2016, in between 11.00 a.m. and 01.00 p.m. and thereafter as and when reasonably called by the Investigating Officer for the purpose of investigation, till filing of charge-sheet, if any. The applicant shall cooperate the Investigating Officer in investigation of the crime in question.

(ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them

from disclosing such facts either to the Court or to any police officer.

(iii) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial, in the event of filing charge-sheet, if any, in future against him.

(iv) The applicant shall not repeat commission of similar type of offences in future.

16. The Application stands disposed of in the aforesaid terms.

( A.M. BADAR )  
JUDGE

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