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

CRIMINAL REVISION APPLICATION NO. 181 OF 2015

Shaikh Afsar s/o S.K. Yasin,
Age: 30 years, Occ: Business,
R/o. Mulegalli, Ashti,
Tq. Ashti, Dist. Beed. ..APPLICANT

VERSUS

The State of Maharashtra
Through Police Station, Ashti,
Tq. Ashti, Dist. Beed. ..RESPONDENT

Mr K.J. Suryawanshi, Advocate for applicant;
Mr C.V. Dharurkar, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 20th SEPTEMBER, 2016

ORDER :

The applicant is charge sheeted in Crime No. 13 of 2013 for an offence punishable under Sections 323, 504, 506 of the Indian Penal Code with Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. In the said proceedings, Exhibit-11, an application came to be filed by the present applicant-accused

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under Section 227 of the Code of Criminal Procedure seeking discharge. The grounds for discharge as are alleged in the application are three-fold ;

(a) that the prosecution initiated against the applicant is malafide, as the same is arising out of the political rivalry, (b) an offence in question came to be registered after present applicant initiated the proceedings in the matter of setting aside the election of returned candidate to Grampanchayat, whose disqualification in relation to whom, there is reference in the complaint and (c) even if it is presumed that what has been stated in the first information report is true, still offence alleged cannot be made out against the applicant. The said contentions came to be resisted by the prosecution and as such, learned Additional Sessions, Beed vide order dated 10th August, 2015 rejected the application for discharge. As such present proceedings.

2. Mr. Suryawanshi, learned Counsel for the

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applicant-accused would submit that on the above referred three aspects of the matter, the case for discharge in exercise of provisions of Section 227 of the Code of Criminal Procedure is made out. So as to substantiate his contention, he has invited my attention to the factual matrix and the investigation carried out in the present matter.

3. The claim is opposed by learned A.P.P. on the ground that the material available on record depicts that there is *prima facie* involvement of the applicant in the commission of crime in question. He would then submit that the application was rightly rejected by learned Sessions Judge and as such, this Court in exercise of revisional jurisdiction should refrain itself from passing order of discharge.

4. Having considered rival contentions of the parties, it is required to be considered that the complaint in question is lodged by employee of Grampanchayat, who claims to be belonging to

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reserved category. It is specifically mentioned in the complaint that present applicant entered in to the office of village panchayat on 4th May, 2013 when other employees of the village panchayat were very much present along with elected members. In presence of those employees and members of village panchayat, present applicant has uttered words, which are based on the caste of complainant and the entire incident has taken place in public view. In the complaint, then it is narrated that the words as were uttered based on the caste of complainant were humiliating and insulting. It is also specifically stated that the applicant has hit the complainant on his head with register of village panchayat resulting into fall of the complainant on the ground.

5. After the crime in question came to be registered, the investigating agency has set the investigation in motion and has recorded the statements of Bapu Netke, Gramsevak, Vinayak Dhonde, daily wager working with village panchayat,

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Bharat Murkute, elected member and Kishor Zarekar, Sarpanch, which *prima facie* demonstrate involvement of the applicant in the crime in question. Apart from above, the entire investigation papers as are taken into account by learned Special Court while dealing with the claim of the applicant for discharge under Section 227 of the Code of Criminal Procedure, in my opinion, has rightly concluded that no case for discharge is made out.

6. *Prima facie* upon perusal of the investigation papers, as are referred to herein above, it is to be noted that the ingredients of Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are very much made out, as the entire incident as has been alleged in the complaint, has taken place in public view and also qua ingredients of Section 323 of the Indian Penal Code.

7. In view of above, no case for discharge is made out. No interference in the order passed by

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learned Sessions Judge is called for. The criminal revision application fails and stands dismissed.

(N.W. SAMBRE, J.)

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