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

CRIMINAL APPLICATION NO.5842 OF 2016

1. Ganpat s/o Govind Gurnule,
Age: 65 years, Occ: Labour
2. Shridhar s/o Maroti Gurnule,
Age: 32 years, Occu: Agri.
3. Dhyneshwar s/o Maroti Gurnule,
Age: 30 years, Occu: Labour
4. Shakuji s/o Kondu Choudhari,
Age: 48 years, Occu: Labour
5. Laxman s/o Bhavrao Petkule,
Age: 25 years, Occu: Labour
6. Devidas s/o Shyamrao Shende,
Age: 37 years, Occu: Labour
7. Vittal s/o Waman Choudhari,
Age: 39 years, Occu: Labour
8. Nilesh s/o Maroti Gurnule,
Age: 29 years, Occu: Labour
9. Maroti s/o Ramesh Choudhari,
Age: 29 years, Occu: Labour

All R/o Village Karngi, Taluka Mahur &
District Nanded

..APPLICANTS

VERSUS

The State of Maharashtra,
Through the Police Sub Inspector,
Sindkhed Police Station,
Tq. Mahur & Dist. Nanded

..RESPONDENT

Mr S. N. Janakwade, Advocate for applicants;
Mr S. D. Ghayal, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 23rd November, 2016

ORAL ORDER :

Heard.

2. The applicants apprehend their arrest in C.R. No.39 of 2016, registered at Sindkhed police station, for offences punishable under Sections 143, 323, 504, 506 of the Indian Penal Code and Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The informant, who is Sarpanch of Grampanchayat, Karanji, has lodged report on 19th August, 2016, with regard to an incident alleged to have occurred on 16th August, 2016, between 10.00 a.m. and 11.30 p.m. Said incident occurred when the meeting of the Gramsabha was going on and it is alleged that the present applicants and others abused the complainant by name of his caste.

4. It is submitted on behalf of the applicants by the learned Counsel that there is delay of about three days in lodging the report. There are two groups in the village and the present complaint is a fall out of said rivalry. It is then submitted that in the report, about thirteen persons have been named and as per the complainant, all said persons have uttered the same sentence. There is no reference to any particular applicant uttering a particular sentence. It is, therefore, submitted that considering the aforesaid facts, the applicants are entitled for protection.

(3)

5. The application is opposed by learned Addl. Public Prosecutor by relying upon the police papers. It is submitted that statements of three witnesses indicate that the applicants had abused the complainant with regard to his caste. It is also submitted that some of the present applicants have subsequently lodged a report against the complainant.

6. Perused the police papers as well as the first information report. According to the complainant, the applicants and two others are alleged to have abused the complainant in the name of his caste. Two sentences are attributed to all the applicants. *Prima facie*, such utterances in chorus by about eleven persons appear to be slightly improbable.

7. It is also to be noted that though the complainant is a Sarpanch and the incident is alleged to have taken place in the Gramsabha, report to that effect is lodged on 19th August, 2016, i.e. after three days. The reason given for this delay is that, as the applicants had not talked about said incident anywhere and merely because they were looking at the complainant when he was walking down the road, the said report was lodged. Considering the fact that the complainant is a Sarpanch, it is also improbable that he would wait for three days for lodging such report, especially when the incident alleged is during the meeting of the Gramsabha. In these facts, therefore, the bar under section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would not be attracted when the occurrence of the incident appears doubtful.

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8. In view of aforesaid, a case has been made out to grant protection to the applicants.

9. In view of aforesaid, in the event of applicants' arrest, in C.R. No.39 of 2016, registered at Sindkhed police station, they shall be released on bail, on furnishing P.R. Bond of Rs.15,000/- each and one surety in like amount.

The applicants shall attend the concerned police station on 1st December, 2016 and thereafter as per directions of the Investigating Officer.

They shall not indulge in any such alleged acts in future and no steps shall be taken to coerce the prosecution witnesses.

It is clarified that observations made in this order are only for the purposes of deciding the present application.

Application is allowed and disposed of.

(A.S. CHANDURKAR, J.)

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