

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6251 OF 2016

Maruti S/o Baburao Lavhat

Age : 68 years, Occu.: Agri.,

R/o. Varur Bk., Tq. Shevgaon,

Dist. Ahmednagar

.. Applicant
(Orig. Accused)

Vs.

The State of Maharashtra

Through Investigation Officer,

Shevgaon Police Officer,

Tq. Shevgaon, Dist. Ahmednagar

.. Respondent

AND

CRIMINAL APPLICATION NO. 6198 OF 2016

Dilip S/o Trimbak Wavare

Age : 42 years, Occu.: Agri.,

R/o. Varur Bk., Tq. Shevgaon,

Dist. Ahmednagar

.. Applicant
(Orig. Accused)

Vs.

The State of Maharashtra

Through Investigation Officer,

Shevgaon Police Officer,

Tq. Shevgaon, Dist. Ahmednagar

.. Respondent

Mr. N.B. Narwade, Advocate for the applicant in both applications

Mr. R.V. Dasalkar, APP for the respondent/State in both matters

CORAM : A.S. CHANDURKAR, J.

DATE : 09/12/2016

ORAL ORDER :

Heard.

2. Since both the applicants apprehend their arrest in Crime no.I-331 of 2016 registered at Shevgaon Police Station, Tq. Shevgaon, Dist. Ahmednagar for the offences punishable under Section 354, 504, 506 of the Indian Penal Code and section 3(1)(R)(S), 3(2)(V)(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, both the applications are being decided by this common order.

3. As per the FIR lodged by one Ujwala Asaram Garud on 28/10/2016 at about 23.58 hours, it has been stated that on 26/10/2016 at about 6.30 pm, applicant – Dilip Wavare had come from backside and had tried to outrage her modesty. As she shouted, he ran away. Thereafter, abuses were given by said applicant to her husband. When the family members had gone to lodge the report at the police station, applicant – Maruti Lavhat, who was present in the crowd, had abused members of the informant's group, in the name of their caste.

4. It is submitted by learned counsel for the applicants that on 27/10/2016 at about 9.53 hours, the present applicant – Dilip had lodged a report against Asaram Garud, who was the husband of the informant in crime no. I-331 of 2016, that he alongwith others had assaulted him and had removed an amount of Rs.2500/- from his pocket and had caused loss of Rs.15,000/- to his shop. On the same day, the offence being crime no.I-329 of 2016 was lodged by one Vicky More at 23.13 hours against said Asaram Garud and others, in which it was stated that he was also assaulted by aforesaid group when he had been to the police station to lodge the report. It is therefore submitted that by way of counter-blast to the aforesaid two reports, present crime has been registered. There is delay in lodging the said report and it is clear that same is lodged only to falsely implicate the applicants. It is then submitted that the alleged abuses are not shown to have been given in public.

5. The applications are opposed by the learned Additional Public Prosecutor by relying upon the police

papers. It is submitted that statements of the husband of the informant and one Baban Garud indicate occurrence of aforesaid incident. It is submitted that considering the nature of offence reported, the applicants are not entitled for protection.

6. Perused the FIR as well as the police papers. It can be seen that applicant – Dilip had first lodged his report on 27/10/2016 at about 9.53 pm. against various persons including Asaram Garud. Two hours thereafter, second report being crime no.I-329 of 2016 was lodged by one Vicky More against Asaram Garud. Present report has been lodged on 28/10/2016 at 23.58 hours. The incident is alleged to have taken place on 26/10/2016 at 18.30 hours. Thus, the report appears to have been lodged after more than two days, after the other two reports were registered. Statements recorded do not indicate presence of any eye witness, who has either seen the alleged incident or who has heard the same. Statements recorded merely refer to the version narrated by the informant. It is also to be noted that the accused in crime nos.I-328 of 2016 and I-329 of 2016 have been granted protection from arrest.

7. In this backdrop, I find that occurrence of the alleged incident appears doubtful. In absence of statements of any witnesses in that regard, bar under section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not attracted.

8. In view of aforesaid, the following order:-

ORDER

I) In the event of applicants' arrest in connection with Crime no.I-331 of 2016 registered at Shevgaon Police Station, Tq. Shevgaon, Dist. Ahmednagar for the offences punishable under Section 354, 504, 506 of the Indian Penal Code and section 3(1)(R)(S), 3(2)(V) (A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, they shall be released on bail, upon each of them executing P.R. bond of Rs.15,000/- (Rs. Fifteen Thousand) with one surety in the like amount.

II) The applicants shall attend the concerned Police Station, as and when directed.

III) The applicants shall not take any steps to influence the prosecution witnesses.

9. Observations made in this order are only for the purposes of considering the present Application.

10. Criminal Applications are accordingly allowed and disposed of.

[A.S. CHANDURKAR]
JUDGE

arp/