

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

CRIMINAL WRIT PETITION NO. 1649 OF 2015

Dr. Tippa s/o Vishwanath Anantwal .. Petitioner

Versus

The State of Maharashtra & Anr. .. Respondents

.....
Mr Shrikishan S. Shinde, Advocate for the petitioner
Mr R. B. Bagul, APP for respondent/State
Mr Sanjay N. Gaikwad, Advocate for respondent No. 2
.....

**CORAM : A.V.NIRGUDE &
V.L. ACHLIYA, JJ.
DATED : 14.07.2016.**

PER COURT :

. This petition seeks quashing of RCC No. 456 of 2015, arising from Crime No. 3081 of 2015 registered at Shivaji Nagar, Latur for offences punishable under Sections 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The allegation against the petitioner is that, he is an Officer of Animal Husbandry Department. On the day of incident, he entered

his colleague's cabin where the complainant was already sitting. Seeing the complainant sitting there, it is alleged that the petitioner abused him and asked to go away. He also abused him on the basis of his scheduled caste. Complaint was lodged and as said above, charge-sheet is also filed. The petitioner seeks protection on the basis of Section 197 of Cr.P.C. According to him, the incident took place while he was in his office and, therefore, whatever alleged happened could be an act in discharge of his official duty.

3. We perused the case papers and we noticed a serious lapse in the investigation. As said above, the petitioner had entered cabin of one Dr. Sanjay Shinde, where the incident took place. The police papers do not contain statement of Dr. Sanjay Shinde. Dr. Sanjay Shinde was a natural witness and his statement ought to have been present in the police papers. We have reason to believe that, since Dr. Sanjay Shinde did not support the prosecution case, his statement even if recorded was probably discarded and not included in the charge-sheet. This, in our view, is a dishonest instance of investigation, which would prompt us to use our powers u/s 482 of the Code of Criminal Procedure for discarding the entire prosecution case. Whether the petitioner is

entitled to protect u/s 197 of the Cr.P.C. is an independent issue and we are not discussing the same in this order. Suffice it to say that, the case of prosecution could be discarded and quashed for the reasons mentioned above.

4. Writ Petition stands allowed.

[V. L. ACHLIYA]
JUDGE

[A. V. NIRGUDE]
JUDGE