

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3131 OF 2003

Peter Paul Raj	...	Applicant
Vs.		
Sr. Police Officer		
Mumbai Central Railway Police		
Station & Anr.	...	Respondents

Mr. Ramesh Dube-Patil, Adv. i/b. Ajay Misal & Co. for the applicant.
Mrs. R.M. Gadhvi, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 1st February, 2016.

P.C. :

1. This is an application filed under Section 482 of the Cr.P.C. challenging the order dated 5th April, 2003 passed by learned Sessions Court directing re-investigation of crime No. BCR No.26 of 93 under Sections 3(i) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The applicant herein was serving as Senior Catering Inspector in Western Railway. The respondent No.3 / complainant was working as catering inspector. The applicant as well as respondent No.3 were the members of two rival unions. The records reveal that the applicant as well as respondent No.3 had filed

complaint and counter complaint against each other. The complaint dated 21st January, 1993 was lodged by the respondent No.3 pursuant to which the aforesaid crime came to be registered. Respondent No.3 had alleged that on 18th January, 1993 at about 11.30 hrs while he was on duty and was passing by the office of applicant, the applicant had abused him with reference to his caste.

3. It is pertinent to note that Rule 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides that the offence committed under the Act shall be investigated by Police Officer not below the rank of Deputy Superintendent of Police. The records reveal that the present crime was investigated by the PSI which was in contravention of Rule 7. The records further reveal that upon completion of the investigation the Inspector had filed the chargesheet before the Sessions Court, Greater Mumbai, when in fact the chargesheet was required to be filed before Special Court in accordance with Section 14 of the said Act.

4. The records also reveal that having noticed the said discrepancies the prosecution had filed an application for re-investigation of the case. The learned Sessions Judge by the impugned

order held that the investigation was defective and that the applicant was required to be discharged on technical grounds. The learned Sessions Judge, however granted permission to re-investigate the crime.

5. It is pertinent to note that the Sessions Judge had already observed that the case was wrongly filed as Sessions Case instead of a special case under Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Since the Sessions Court was not specified as a special Court to try the offence under the Act, in terms of Section 14 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Sessions Judge had no jurisdiction to order further investigation of the said crime.

6. Be that as it may, the records reveal that the respondent No.3 / the complainant at whose instance the aforesaid crime was registered, had put his appearance before this Court and filed his affidavit, where he has stated that the dispute between the rival unions has been amicably settled. He has stated that the applicant herein has withdrawn the complaint filed against him and that he too has no personal grudge against the applicant. The respondent No.3 /

complainant has stated that he is not interested in proceeding with the FIR No.26/93.

7. Considering the above facts and circumstances, in my considered view, no fruitful purpose would be served in proceeding with the said FIR. Even otherwise the impugned order is illegal and without jurisdiction.

8. Under the circumstances and in view of discussion supra the application is allowed. The impugned order dated 5th April, 2003 directing further re-investigation of Crime No. BCR No.26/93 is hereby set aside.

(ANUJA PRABHUDESSAI, J.)