

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.436 OF 2009

Mr. Beby Samuel

..... Applicant

V/s

The State of Maharashtra & Anr.

..... Respondents

Mr. Shreekant V. Gavand for the Applicant.

Ms. M.H. Mhatre, APP for the Respondent No.1/State.

Mr. Avinash H. Fatangare for the Respondent No.2.

CORAM : A.S. OKA &

A.A. SAYED, JJ.

DATED : 21 JULY 2016

ORAL JUDGMENT: (Per A.S. OKA, J.)

1 Rule has already been issued.

2 Heard the learned Counsel appearing for the Applicant, the learned APP for the Respondent No.1/State and learned Counsel appearing for the second Respondent.

3 By this Application under section 482 of the Code of Criminal Procedure, 1973, (for short CrPC), the Applicant has prayed for quashing First Information Report being C.R. No.3 of 2009 registered with Khopoli

Police Station for the offences punishable under sections 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the said Act”).

4 The second Respondent is the first Informant. We have perused the statement of the second Respondent on the basis of which the First Information Report was registered. It records that the Khopoli Municipal Council carried out the work of road widening and construction of new bridge near his house. While carrying out the said work, the house standing in the name of his mother was damaged. Therefore, he applied to the Khopoli Municipal Council for grant of a suitable premises. It is stated that on the basis of the said Application, he was called by the Khopoli Municipal Authorities for showing premises. At that time, the Applicant who was the then Vice President arrived at the site. It is alleged that the Applicant uttered objectionable words which constituted the offence under the said Act.

5 Learned Counsel appearing for the second Respondent has placed on record an Affidavit of the second Respondent. In the said Affidavit, the second Respondent has stated that the Applicant was the Vice President of the Khopoli Municipal Council. At the relevant time, he was elected Councilor of the local Ward wherein the house of his mother

was situated. He has stated that the Applicant came to the site as he was representing the local Ward. He has further stated in the Affidavit that thereafter the dispute between the Applicant and the second Respondent has been settled.

6 Perusal of the Annexures to the Application show that on 11 February 2008, the Chief Officer, Khopoli Municipal Council had served a notice to the second Respondent's mother calling upon her to remove illegal construction. A letter addressed by the Chief Officer dated 26 May 2008 to the District Collector stating that for road widening and construction of new bridge, the demolition of structure will be necessary. On this background, a serious doubt is created whether the statement made by the second Respondent before the police was bonafide and correct. Secondly, it is impossible to conclude that the offence punishable under the said Act is made out even by taking the statement as correct. Moreover, there is a settlement between the Applicant and the second Respondent.

7 Therefore, in our view, this is a fit case to exercise the power under section 482 of the CrPC for quashing the proceedings. In any case, it cannot be said that the offence alleged is against the Society at large.

8 Hence, we pass following order:

i) Rule is made absolute in terms of prayer clause (a) which reads as under:

“(a) That the FIR in Khopoli Police Station C.R. No.3/2009 registered against the Applicant be quashed and set aside;”

(A.A. SAYED, J.)

(A.S. OKA, J.)

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