

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1588 OF 2016

Maruti Yashwant Walhekar & Anr. ... Petitioners
Vs.
The State of Maharashtra & Anr. ... Respondents

Mrs. Pranali Kakade i/b. Mr. Subhash Hulyalkar, Advocate for the petitioners.
Mr. V.V. Gangurde, APP for the respondent/State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **13th December, 2016**

P.C.:

In this Writ Petition, the petitioners have challenged the order dated 29th March, 2016 passed by the learned Additional Sessions Judge, Pune thereby refusing to discharge the present petitioners from the offences punishable under sections 323 r/w. 34 of Indian Penal Code.

2. It is contended by the learned counsel for the petitioners that the petitioners were earlier prosecuted for the offences punishable under section 3(1)(5)(10) and (6) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, under section 7(1)(d) of Protection of Civil Rights Act along with sections 504, 506(2) and section 323 r/w. 34 of Indian Penal Code. It is submitted that the learned Sessions Judge by his order dated 29th March, 2016 has discharged the accused from all the offences except the offence punishable under section 323 of Indian Penal

Code. It is submitted that the said section is non-cognizable and so the accused/petitioners are to be discharged.

3. Learned APP opposed the Application and submitted that the charge is already framed under section 323 of Indian Penal Code.

4. Though the offence under section 323 is non-cognizable, the police at the time of registering offence against the petitioners have charged them under other cognizable offence especially the offence under Scheduled Castes and Scheduled Tribes Act and, therefore, there is no illegality in registration of non-cognizable offence along with cognizable offence by the police when FIR was registered. After going through the FIR of respondent no. 2, the allegations prima facie making the offence under section 323 are seen. Hence, I do not want to interfere in the order passed by the learned Sessions Judge. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)