

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

CRIMINAL APPLICATION NO.1274 OF 2016

1. Anup s/o. Ashok Bihani,
Age: 35 years, Occu. Business.
2. Manoj s/o. Ashok Bihani,
Age: 45 years, Occu. Business & Agri.
3. Prabhawati w/o. Satish Bihani,
Age: 50 years, Occu : Housewife
4. Namdeo s/o. Raghu Kharade,
Age: 56 years, Occu : Service.
5. Rajendra s/o. Dhondiba Sontakke
Age: 35 years, Occu : Service

All R/o. Rahuri, Tq.Rahuri,
Dist. Ahmednagar.

APPLICANTS

VERSUS

1. The State of Maharashtra
Rahuri Police Station,
Tq. Rahuri, District Ahmednagar.
2. Dilip Punja Kasbe
Age: 57 years, Occu: Nil
R/o. Manjoba Nagar, Rahuri
Tq. Rahuri, Dist. Ahmednagar

RESPONDENTS

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Mr.V.S.Bedre, Advocate for the applicants
Mr.S.P.Deshmukh, APP for Respondent no.1 /
State
Mr.N.N.Shinde, Advocate for Respondent no.2

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**CORAM: S.S.SHINDE &
K.K.SONAWANE, JJ.**

Reserved on : 27.04.2017
Pronounced on : 02.05.2017

JUDGMENT: (Per S.S.Shinde, J.):

1. This Application is filed with prayer to quash and set aside the First Information Report vide Crime No.I-18/2016 registered with Rahuri Police Station, Rahuri, for the offences punishable under Sections 3 [1], [8], [9], [10] of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989 [for short 'Act of 1989'], and Section 506 r/w.34 of the Indian Penal Code and also the charge-sheet arising out of the said crime.

2. The learned counsel appearing for the applicants submits that, even if the allegations in the FIR are taken at its face value and read in its entirety, an alleged offences have not been disclosed, and

therefore, the continuation of the further proceedings would be abuse of process of the Court. It is submitted that, respondent no.2 has lodged the First Information Report out of vengeance, since his services have been terminated by the management. It is submitted that, the Division Bench of the Bombay High Court, Bench at Nagpur, in the case of **State of Maharashtra Vs. Shashikant s/o. Eknath Shinde** in Criminal Application No.258 of 2013 [APL], decided on July 2, 2013, has taken a view that when there is grievance about promotion or any other grievance in relation to the services, filing the First Information Report invoking the provisions of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989, is not the remedy and aggrieved persons can approach appropriate Forum for redressal of the grievance. It is submitted that, in the present case, already respondent no.2 has

resorted to the appropriate remedy for redressal of his grievance, challenging the termination of his services, and therefore, the FIR deserves to be quashed.

3. It is submitted that, the material collected by the Investigating Officer during the course of investigation would clearly show that, the applicants have not committed any offence which would attract the provisions of the Act of 1989. It is submitted that, there is nothing on record to show that, an alleged incident was taken place at public place with an intent to humiliate respondent no.2. The complaint filed with *mala fide* intention with *ulterior motive*, and therefore, the FIR and the charge-sheet deserve to be quashed. In support of the aforesaid contention, he also placed reliance on the judgment of the Supreme Court in the case of **Gorige Pentaiah**

Vs. State of A.P. and ors.¹.

4. On the other hand, the learned APP appearing for the respondent-State invites our attention to the allegations in the FIR and also the material collected by the Investigation Officer during the course of investigation and submits that, an alleged offences are clearly disclosed, and therefore, the prayer of the applicants to quash the FIR may be rejected.

5. The learned counsel appearing for respondent no.2 invites our attention to the allegations in the FIR and also accompaniment of the charge-sheet and submits that, an alleged offences have been disclosed, and the Investigation Officer, during the course of investigation, has collected the sufficient material and on the basis of it, trial can proceed. The learned counsel submits that, when the alleged offences under the

1 AIR 2008 SC [Suppl] 634

provisions of the Act of 1989, are disclosed, and if those allegations get support from the statement of the witnesses, in that case, the prayer for quashing the FIR and the charge-sheet deserves to be rejected. It is submitted that, whether an alleged offence has taken place in the public view or otherwise is a matter of appreciation of the evidence. In support of the aforesaid contentions, he placed reliance upon the following judgments; in the case of **Vilas Pandurang Pawar and another Vs. State of Maharashtra and others**², in the case of **Bajirao Narayan Deshmukh & Ors. Vs. State of Maharashtra & Ors.**³, in the case of **Vasant Kakasaheb Thorat Vs. The State of Maharashtra and others** in Criminal Writ Petition No.333 of 2006 decided on 3rd July, 2014, in the case of **Gorige Pentaiash Vs. State of A.P. and Ors.**⁴, in the case of **Radhey Shyam Khemka and**

2 [2012] 8 SCC 795

3 2015 [3] Bom.C.R. [Cri.] 190

4 AIR 2008 SC [Supp.] 634

another Vs. State of Bihar⁵, in the case of ***State of Maharashtra Vs. Salman Salim Khan and another***⁶, in the case of ***State of Punjab Vs. Dharam Vir Singh Jethi***⁷, in the case of ***State of Orissa and another Vs. Saroj Kumar Sahoo***⁸ and in the case of ***Bachu Das Vs. State of Bihar***⁹.

6. We have given careful consideration to the submissions of the learned counsel appearing for the applicants, learned APP appearing for respondent—State and the learned counsel appearing for respondent no.2. With their able assistance, we have carefully perused the allegations in the FIR and also the charge-sheet, accompaniments of the charge-sheet. Upon careful perusal of the allegations in the FIR, an ingredients of the alleged offences have been attracted and

5 [1993] 3 SCC 54

6 AIR 2004 SC 1189

7 1994 SCC [Cri.] 500

8 [2005] 13 SCC 540

9 2014 [3] SCC 471

prima facie an alleged offences have been disclosed. Upon careful perusal of the material collected during the course of investigation by the Investigating Officer, we find that, the statement given by one Satyadra Wamanrao Teltumbade lends support to the allegations in the FIR. It is not desirable to elaborate the reasons on merits of the contention raised by the parties, since the same may cause prejudice to the interest of the parties.

7. In that view of the matter, it is suffice to say that, *prima facie* an alleged offences are disclosed and also the Investigation Officer has collected the material during the course of investigation. In that view of the matter, we are not inclined to entertain the prayer for quashing the FIR and the charge-sheet, hence the application stands rejected.

8. An observations made herein above are *prima facie* in nature and confined to the adjudication of the present application. This order will not preclude the applicants from availing of an appropriate remedy for filing the application for discharge.

[K.K.SONAWANE]
JUDGE

[S.S.SHINDE]
JUDGE

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