

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3937 OF 2015**

Mr. Vijaykumar Laxman Sonawane Petitioner

Vs.

Mr. Laxminarasu Buchayya Posham Respondents
& Ors.

Mr. Favzan Shaikh i/by Mr. M.V. Thorat, Advocate for the
Petitioner.

Ms. Jayshree Gite i/by Ashok Tajane, Advocate for Respondents
no. 1 to 3.

Mr. Niranjan P. i/by Mr. D.G. Dhanure, Advocate for
Respondents no. 4 and 6.

Mr. Sharad Bhosale i/by Mr. Dilip Bodake, Advocate for
Respondent no.5

Mr. S.G. Kudle, Advocate for Respondent no.8.

Mr. V.B. Konde-Deshmukh, A.P.P. for the respondent- State.

Coram : Smt. R.P. SondurBaldota, J.

Date : 23rd January, 2017

P.C.

1 This petition challenges the order dtd. 20th
February, 2013 passed by the trial court dismissing the
petitioner's complaint, which is confirmed by the Sessions
Court, by it's order dtd. 1st July, 2015.

2 On 18th December, 2012, the petitioner filed the complaint alleging that Solapur Municipal Corporation had allotted sub-plot no. 175 to him as he belongs to Scheduled Caste “Harijan-Dhor”. As he was unable to pay the instalments to Municipal Corporation, he transferred the allotment to his grandmother one Manjulabai. The Corporation however refused to accept the transfer to his grandmother and has subsequently allotted the same to respondents no.1 to 3. The petitioner has therefore filed civil proceedings challenging the resolution of Solapur Municipal Corporation in cancelling the allotment to him and allotting the land to respondents no.1 to 3. The proceedings are pending for hearing. In the complaint, he further alleged that on 21st November, 2012, when he had visited the office of the Sub-Registrar, all the respondents were present. They abused him over his caste at a public place within the hearing of several persons and thereby committed an offence punishable under the Scheduled Castes & Scheduled Tribes (Prevention) of Atrocities Act. As per the complaint as filed originally, abusive word over the caste uttered was “Maharadya”, which has been scored off to correct by hand to “Dhor”. In his statement in verification, however the petitioner alleged that the word used against him was “Mahardya”. The petitioner has examined his tenant in support of his allegation. The witness stated that on the date and time of the incident, he was present at the place of the incident, when some people

uttered both the abusive words i.e. “Maharadya” and “Dhor”. The witness does not state that it was respondents who had used the abusive words.

3 The trial court in its impugned order has noted that the initial word mentioned in vernacular in the complaint was “Maharadya”, which has subsequently corrected to vernacular word “Dhor”. However, the word mentioned by the petitioner in his statement in verification of the complaint is “Maharadya”. Thus there is inconsistency in the complaint and the evidence on the material aspect of the allegation. The trial court also noted that the witness of the petitioner has not implicated any of the accused in abusing the petitioner as alleged in the complaint. The trial court further noted that it is clear from the record that the petitioner is trying to involve the respondents in criminal proceedings because of the dispute pending in the civil court. It further noted that considering the long standing civil dispute of more than 11 years and position of some of the accused persons as public servant, it can neither be believed nor be imagined that they would use such words against the petitioner who is also a public servant. Respondent no.4 is the Land Revenue Officer, respondent no.5 is the Commissioner of Solapur Municipal Corporation, respondent no.6 is Ad-hoc Commissioner, Solapur Municipal Corporation and respondents no. 7 and 8 are the Corporators.

4 The Sessions Court, by its order has confirmed the order of the trial court for the same reasons as stated in the trial court's order. It has observed that the reasons stated by the trial court are sound reasons. Exact words in the name of caste, in order to humiliate member of a particular caste should be given and it should be so stated in the evidence, else the possibility of the false implication cannot be ruled out.

5 Mr. Shaikh, the learned advocate for the petitioner sought to argue for the first time before this court that the alternation made in the complaint as regards the abusive words used against the petitioner was not made by the petitioner and that he does not know as to who made that correction. This argument is clearly an afterthought. Since the trial court's order is based on the very alteration, the petitioner had ample opportunity to bring any such mischief to the notice of the trial court or also the Sessions Court. No such step was taken by him. The orders passed by the trial court and the Sessions Court are correct orders. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J.)