

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

**Criminal Application No.1134 of 2008
With
Criminal Application No.3032 of 2016**

- 1) Sanjay s/o Vitthal Kutwal,
Age 32 years,
Occupation: Agriculture
R/o Kautha, Taluka Shrigonda,
District Ahmednagar.
- 2) Balu s/o Ramrao Mane,
Age 25 years,
Occupation: Agriculture
R/o Kautha, Taluka Shrigonda,
District Ahmednagar. **.. Applicants.**

Versus

- 1) The State of Maharashtra
Through Police Inspector,
Shrigonda Police Station,
Taluka Shrigonda,
District Ahmednagar.
- 2) The Superintendent of Police,
Ahmednagar.
- 3) Ankush s/o Bhausahab Dhamdere,
Age 35 years,
Occupation: Agriculture
R/o Kautha Sirsaiwadi, Kautha,
Taluka Shrigonda,
District Ahmednagar. **.. Respondents.**

Shri. A.A. Mukhedkar, Advocate, for applicants.

Smt. P.V. Diggikar, Additional Public Prosecutor, for respondent Nos.1 and 2.

Shri. Pratap Vikhe Patil, Advocate, holding for Shri. R.R. Karpe, Advocate, for respondent No.3.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 16 JULY 2018

JUDGMENT (Per T.V. Nalawade, J.):

1) The proceeding is filed under section 482 of the Code of Criminal Procedure for relief of quashing of the F.I.R. No.II-4/2008 registered in Shrigonda Police Station, District Ahmednagar for offences punishable under section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, section 7(1)(d) of the Protection of Civil Rights Act, 1955 and sections 323, 504, 506, 34 etc. of the Indian Penal Code. Both the sides are heard.

2) The F.I.R. was given by respondent No.3 - Ankush in respect of incident dated 15-3-2008. F.I.R. was

given on the next day of the incident. Allegations are made that on the date of the incident at about 8.00 p.m. to 9.00 p.m. present applicants came to his house and they picked up quarrel by saying that cousin of the first informant namely Bhujang was not ready to execute out and out sale deed in respect of the land which is given to them under a mortgage by conditional sale. When the first informant said that he had no concern with the said transaction, the applicants gave abuses to him by taking the name of his caste which is a scheduled caste and they gave beating to him. It is his contention that, his father, mother, uncle and other persons like Bhagwan and Uttam rushed to rescue him. Thus, allegations are made that he was assaulted by the applicants and the applicants had given abuses by taking name of his caste which is a scheduled caste.

3) Learned counsel for the applicants placed reliance on the observations made by this court in the case reported as **2005 (4) Mh.L.J. 588 (Manohar v. State of Maharashtra)**. In that case this Court had observed that in such case in the F.I.R. it is necessary to mention the caste

of the accused and also the caste of the first informant. It was observed that registration of F.I.R. itself will not be proper in such cases. On this point, learned Additional Public Prosecutor placed reliance on the case reported as **AIR 2009 SC 1973 (Ashabai Machindra Adhagale v. State of Maharashtra)**. The Apex Court has held that such approach is not proper as during investigation police can always collect material showing the caste of the complainant and the caste of the accused. Thus there is no force in the arguments advanced by the learned counsel for the applicants that due to absence of mention of the caste of the accused, F.I.R. needs to be quashed.

4) Another point was argued by learned counsel for the applicants that the incident had taken place inside of the house of the first informant and so the place was not within a "public view" as mentioned in the aforesaid section of the Act of 1989. This submission is also not acceptable as many persons were there including the neighbours and they had witnessed the incident. In view of these circumstances, it cannot be said that the incident did not take place within "public view". Thus, on merits, it

is not possible to quash the F.I.R. In the result, the proceeding is dismissed. Interim relief is vacated. Rule is discharged. Criminal Application No.3032/2016 filed by the State for fixing early date of hearing is disposed of.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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