

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 818 OF 2008

Shri Shantaram Dayaram Patil,
Age: 52 years, Occu: Advocate,
R/o. 54, Snehnagar, Station Road,
Dhule, Tq. & Dist. Dhule.

... **APPLICANT**

VERSUS

1. The State of Maharashtra.

2. Smt. Minabai Tulshiram Baisane,
Age: 52 yeas, Occu: Household,
R/o. Siddharth Nagar, Chittod Road,
Dhule, Dist. Dhule.

... **RESPONDENTS**

...
Mr. P. R. Katneshwarkar, h/f Mr. M. H. Patil, Advocate for Applicant.
Mr. S. J. Salgare, APP for Respondent No.1 / State.
Mr. P. B. Patil, Advocate for Respondent No.2.

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

DATE : 06th July, 2018.

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

. The proceeding is filed under Section 482 of the Code of

Criminal Procedure for relief of quashing of FIR No.193 of 2007, registered with City Police Station, Dhule, for the offences punishable under Sections 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Section 7 (1) (3) of the Protection of Civil Rights Act and Section 504 and 506 of the Indian Penal Code. The Applicant was allowed to make amendment and so there is relief of quashing of case filed in the crime.

2 Both the sides are heard.

3 FIR was given by one Minabai, resident of Chittod Road, Dhule. She has made allegations against present Applicant, who is a practicing Advocate from Dhule that on 11th October, 2007 at about 12:00 noon, when she and her friend Anjanabai had gone to Dhule Court to make inquiry with the present Applicant about 7/12 extract, which was in favour of Sardar Jagmohansing, the present Applicant quarreled with them and gave abuses by taking the name of the caste of first informant and gave threats also. The FIR was given on 11th October, 2007.

4 The submissions made and record show that from the year 1991 itself, this lady had a dispute with Sardar Jagmohansing in respect of agricultural land bearing Gat No.128. She had filed civil proceeding also. Her husband had also filed civil proceeding, but both of them could not succeed in the civil proceedings. It is the case of Sardar Jagmohansing that he has purchased that property under registered sale-deed. The present Applicant was representing Sardar Jagmohansing in various proceedings.

5 In the past also, private complaint was filed against the present Applicant and order of issue process was made against him for the offence of criminal trespass in the land and for the offence punishable under Section 323 of the Indian Penal Code. His client was shown as other accused. The said order was challenged and in Criminal Application No.743 of 1996, this Court had an occasion to consider the entire litigation and the nature of dispute. This Court quashed and set aside the order made against the preset Applicant in that proceeding. The order was made on 4th February, 2004. If relations between present Applicant and said lady were strained, it does not look probable that this lady had attempted to collect the

information against the client of Applicant in the Court on 11th October, 2007.

6 The papers of investigation show that only one lady, who was allegedly in the company of first informant, gave statement in her support, but everybody from Court gave statements in favour of present Applicant. Nobody had heard any abuses given by present Applicant by taking the name of the caste. Further, the material collected and even allegations made in FIR show that the Respondent, first informant had gone to the Applicant to question him and she had picked up the quarrel.

7 The learned counsel for Applicant produced on record copies of decisions given in two matters like S.C.C. No.451 of 2012 and S.C.C. No.2101 of 2011. These proceedings are decided by Judicial Magistrate First Class, Dhule. In the first proceeding, present Respondent was first informant and she had made allegations against the Accused that he had committed the offence punishable under Section 354 of the Indian Penal Code. The accused was acquitted and it can be said that the allegations were made out of the civil

dispute, which the present Respondent is having against aforesaid Sardar Jagmohansing. The second decision of Judicial Magistrate First Class shows that the case was filed at the instance of public servant that the present Respondent had picked up quarrel and she had obstructed him from doing public duty. In that case, by decision dated 8th February, 2018, the present Respondent was convicted for the offence punishable under Section 353 of the Indian Penal Code.

8 In view of aforesaid circumstances, this Court holds that out of vindictiveness, report is given against Advocate by Respondent No.2. The Advocate was representing the party who is opposite to Respondent No.2. There is no material showing that the story given by first informant is convincing. It will be abuse of process of law if the Applicant is asked to face the trial for the aforesaid offence. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (C).
- III. Charge-sheet is also quashed and set aside.

IV. Amendment is to be carried out in the application
by the Applicant to add such relief.

V. Rule made absolute in those terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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