

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

Criminal Application No.1112 of 2008

* Sadashiv S/o Ambadas Gayake,
Age 63 years,
Occupation : Agriculture and
Social Service,
R/o Mhada Colony,
Near Shani Temple, Aurangabad. .. **Applicant.**

Versus

- 1) The State of Maharashtra
Through in-charge Police Station,
Kannad, Taluka Kannad,
District Aurangabad.
- 2) Dayanand s/o Dagaduji Bankar,
Age 57 years,
Occupation: Agriculture,
R/o Ritthi, Taluka Kannad,
District Aurangabad. .. **Respondents.**

Shri. V.D. Sapkal, Advocate, for Applicant.

Mrs. D.S. Jape, Additional Public Prosecutor, for
respondent No.1.

Shri. Anand Kulkarni, Advocate, holding for Shri. R.S.
Deshmukh, Advocate, for respondent No.2.

**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 the relief of quashing of F.I.R. No.II-9/2008 registered with Kannad Police Station, District Aurangabad for offences punishable under section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 7(1)(d) of the Protection of Civil Rights Act, 1955. Both the sides are heard.

2) The crime was registered on the basis of report given by respondent No.2 - Dayanand. The report was given in respect of incident dated 28-1-2008. Prior to that date, the first informant had filed a case against the present applicant and he was present in Kannad Court in connection with that case on 28-1-2008. It is his contention that when he was coming out of the court campus in the noon time, present applicant intercepted him near the statue of Tilak and gave abuses to him by taking the name of his caste which is a scheduled caste. Allegations are made that present applicant rushed at the

first informant and assaulted him and then the persons like Laxman Naik Sarpanch and others intervened to settle the dispute. The F.I.R. came to be given on the next day.

3) It was submitted for the applicant that on 30-10-2006 the applicant had given a representation to the Police Inspector, Kannad and he had expressed apprehension that the first informant may file a false case under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act against him due to the dispute which was there between the applicant and the first informant. Copy of the said report is produced. Such representation cannot be considered at this stage. Papers of investigation show that many persons had witnessed the incident. Though some persons said that they had not witnessed the incident, it will be open to the investigating officer to form opinion after collecting entire material as subjective satisfaction of the investigating officer is involved for filing final report. It can be said that there is material of aforesaid nature and the respondents have opposed the present application. It can be said due to

interim relief granted by this Court on 26-6-2008, further steps are not taken. Thus it cannot be said that false F.I.R. was given by respondent No.2 against present applicant. Copy of private complaint which was filed by the first informant in the past, bearing S.C.C. No.798 of 2006 is also produced on the record. In the result, the proceeding is dismissed. Interim relief is vacated. Rule is discharged.

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

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

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