

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

Criminal Application No.1162 of 2008

* Karansingh s/o Narsingh Thakur,
Age 37 years, Occupation : Service,
R/o Gadipura, Nanded. .. **Applicant.**

Versus

- 1) The State of Maharashtra.
- 2) Naru s/o Nagorao Gaikwad,
Age 35 years, Occupation : Nil,
R/o Nasratpur,
Taluka & District Nanded. .. **Respondents.**

Shri. Vijay Sharma, Advocate, for applicant.

Smt. P.V. Diggikar, Additional Public Prosecutor, for
respondent No.1.

Shri. S.V. Kurundkar, Advocate, for respondent No.2.

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

Date: 1 AUGUST 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.40/2008 registered with Bhagyanagar Police Station Nanded for offences punishable under section 3(1)

(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and also under other sections like sections 446, 451, 504, 34 etc. of the Indian Penal Code. Both the sides are heard.

2) The complaint was made by so many persons against the applicant that the applicant was trying to forcibly take possession of immovable property from them. It is their contention that the land under which plots are prepared was belonging to one Datta Sarode and he has sold those plots to them. It is their contention that on their plots they have made construction of houses and sheds and they were living there since last 8 to 10 years. Datta Sarode died about 7 to 8 months prior to the date of F.I.R. i.e. prior to 17-1-2008.

3) Allegations are made that present applicant had probably prepared false record and probably Datta Sarode had helped him for creation of false record and some plots are shown to be sold to present applicant by Datta Sarode. It is contended that behind their back Special Civil Suit No.95/2004 was filed by present

applicant against Datta Sarode and decree was obtained in the said suit. It is contended that as they were not party to the said suit, the decree is not binding on them.

4) Allegations are made that on 14-1-2008 present applicant Karansing came with his sons and also police constables to their plots. Allegations are made that the applicant gave abuses by taking the name of their caste which is schedule caste and started using force to take possession of their property. There were in all 24 to 25 persons belonging to the scheduled caste and there were persons of other caste like Dhangar etc. In view of these circumstances, the crime came to be registered for the aforesaid offences. It can be said that crime could have been registered for offence punishable under section 3(1) (v) of the aforesaid special enactment also as the action was to take possession forcibly and illegally.

5) The learned counsel for the applicant submitted that Datta Sarode had sold the property to the applicant under sale-deed dated 24-9-2007 (for Datta sale deed is signed by Court Officer). It is contended that prior to the date of the suit which was filed by him against Datta

Sarode for specific performance of contract in the year 2004, as there was agreement of sale dated 8-7-2001 and so he has become owner of the plots mentioned in the suit. 30 plots are mentioned in the decree.

6) The submissions made and the record show that there were in all 50 plots and there were aforesaid number of persons occupying the plots. Even police protection was taken by the present applicant. He had not filed execution proceeding and he wanted to take possession by using police help. Thus there was no order of the Court. Admittedly, the first informant and the witnesses were not party to the suit in which the decree of specific performance was given against Datta. In view of these circumstances this Court holds that it cannot be said that false allegations are made or false F.I.R. was given. Police papers include statements of all the persons and plot numbers are also given. The plot numbers which are shown in the complaint are mentioned in the suit also. Thus, there is more than sufficient material to make out aforesaid offences and most of the material is created by the applicant himself.

7) Learned counsel for the applicant placed reliance on some observations made by the Apex Court in the case reported as **2018 ALL MR (Cri) 1773 (S.C.) (Dr. Subhash Kashinath Mahajan v. State of Maharashtra)**. The observations were altogether in different context. Facts of the present matter are different and so the observations cannot be of any use to the applicant. In the result, the application is dismissed. Rule is discharged. Interim relief is vacated.

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

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

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