

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

CRIMINAL APPLICATION NO. 1325 OF 2008

1. Pandurang s/o Saudagar Limkar
Age: 38 years, Occu : Agri.
2. Saudagar s/o Babu Limkar
Age – 68 years, Occu- Agri.
3. Gandharibai w/o Saudagar Limkar
Age – 62 years, Occu – Household
4. Maruti Dnyandeo Shelke,
Age – 50 years, Occu – Agri.

All R/o – Bhotra, Tq. Paranda,
District – Osmanabad

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Applicants

VERSUS

1. The State of Maharashtra,
through P.I. Police Station, Paranda,
District - Osmanabad.
(Copy to be served on Public Prosecutor,
High Court Bench at Aurangabad)

2. Abhiman s/o Eknath Shelar
Age -60 years, Occu- Labour.
R/o – Bhotra, Tq – Paranda,
District – Osmanabad.

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Respondents

Mr. Ganesh B. Patunkar h/f Mr. S. M. Vibute for the Applicants.

Mr. S. J. Salgare, APP for Respondent - State.

Mr. D. P. Palodkar for the Respondent No. 2.

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

DATE: : 23rd July, 2018

JUDGMENT (Per K. L. Wadane,J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.
2. This application is filed by the applicants to quash and set aside the First Information Report C.R. No.5/2008 dated 27.03.2018 lodged with the Paranda Police Station for the offences punishable under section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and under Section 323, 504, 506, 427 read with Section 34 of the Indian Penal Code.
3. We have heard the arguments of Mr. G. B. Patunkar holding for Mr. S. M. Vibhute, the learned counsel for the applicants and learned APP, Mr. S. J. Salgare for Respondent – State, and Mr. D. P. Palodkar for respondent No. 2.
4. The respondent No. 2 herein, lodged a complaint to the Police Station, Paranda on 27.03.2008 against the applicants, alleging therein that the respondent No. 2 is belonging to 'Mang' backward class and doing labor work and there is land situated at Village Bhotra and the dispute regarding the same was going on in the Court.
5. On 26.03.2008 at about 6.30 p.m., the respondent came to know that all the applicants went to the field and so also he went to the field. At that time, the applicant Nos. 1 and 4 assaulted him by kick and fist blows and

accused Nos. 2 and 3 abused him on his caste. On the basis of the first information report, an offence at C. R. No.5/2008 came to be registered against the applicants for the offences punishable under Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

6. The papers of investigation are available. On perusal of the same, it appears that in the first information report itself, the complainant has mentioned that on 26.03.2008 at about 6.30 p.m., he went to the field at that time, applicant Nos. 1 to 4 assaulted him by kick and fist blows and applicant Nos. 2 and 3 abused him on his caste. The names of the witnesses to whom the respondent No. 2 disclosed the incident have also been mentioned namely Sudhakar Jagre and Fakira Damu Surwase. Besides the above two witnesses, there is statement of the wife of respondent no.2 recorded by the police. On perusal of the statement of Sudhakar Jagre, it appears that after the incident at about 19 : 00 hours, immediately respondent No. 2 disclosed the incident to these witnesses so also the wife of respondent No. 2 stated before the police that the accused persons assaulted the respondent No. 2 and abused him on caste. Furthermore, from the contents of the first information report, it appears that the incident had taken place in the land of the complainant bearing Gat No. 22/2. The Spot Panchanama is coupled with the map and photographs of the Tomb (Samadhi). On persual of the same, it appears that the Tomb (Samadhi) is admeasuring 4x4 feet and its western portion was

demolished and the stone and the soil of the Tomb (Samadhi) was scattered. So looking to the papers of investigation, it appears that there is dispute between the respondent No. 2 and the applicants in reference to the landed property. Therefore, it appears that this must be the cause for the alleged incident. There are specific allegations made by the respondent No. 2 in the first information report and those are supported by the statements of Sudhakar Jagre and the wife of respondent No. 2. If these statements are read with the contents of the first information report, spot panchnama, its map and photographs, it appears that there are reasons to believe that the applicants have committed offences as leveled against them. These observations are made *prima facie* and will not come in the way of the applicants at the time of the conclusion of the trial.

7. In view of the above, the accusation made against the present applicants cannot be said to be groundless. Hence, there is no substance in the application. Therefore, it is liable to be dismissed. Accordingly, it is dismissed.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)