

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1719 OF 2014

Manjit s/o Nasib Chand Mahey,
Age 49 years, Occupation Service,
R/o Keshavraj Nagar, Behind Babashaeb
Mandir, Sailu Dist. Parbhani. ...Applicant

Versus

- 1) The State of Maharashtra
Through Police Station Officer,
Sailu Police Station, Sailu
Dist. Parbhani.
- 2) Kamaltai w/o Indrajit Lokhande,
Age 40 years, Occupation Social Service,
R/o Vidya Nagar, Sailu
Dist. Parbhani. ...Respondents

Mr. S. G. Chapalgaonkar, Advocate for applicant.
Ms. P. V. Diggikar, Addl. Public Prosecutor, for respondent
No.1/ State.
Mr. M. P. Tripathi, Advocate for respondent No.2.

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.**

DATE : 21-08-2018.

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J)

1. Present application has been filed for quashment of the First Information Report (hereinafter referred to as 'FIR') bearing No. 3030 of 2014, lodged by respondent No.2 with Sailu Police Station

District Parbhani, on 20-03-2014, for the offences punishable under Section 323, 504, 506 of Indian Penal Code and Section 3 (1)(x) (xi) and (xiv) of the Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989.

2. The applicant – original accused is serving as Manager with State Bank of Hyderabad. He had joined his services on 15-07-1996 as Probationary Officer at Nehru Palace, New Delhi. In fact he belongs to AD-DHARMI which is recognized as Scheduled Caste as per Constitution (Scheduled Caste) Order, 1950. Entry in respect of his said caste is taken in his service book and he has been treated as the employee from the Scheduled Caste Category. Certificate by the competent authority i.e. Tahsildar / SDO Civil, Jalandhar – 2, dated 11-07-1996 also says about his caste. Applicant is working as Chief Manager with Sailu Branch since 18-06-2012. He was given promotional post on 01-08-2013. The applicant contends that, respondent No.2 claims herself to be the social worker and Sarpanch of village Chikalthana (K), Dist. Parbhani. She used to visit the bank of the applicant oftenly and used to create nuisance. Previously also her activities were going on at the branch of the applicant as well as with other banks. A group of local leaders from Sailu had made a representation regarding the criminal activities of the respondent No.2 on 12-04-2006 to Deputy Collector, Sailu. Respondent No.2 used to abuse and threaten the staff members, and therefore, the

applicant was required to represent the Police Inspector, Police Station, Sailu to depute a lady police constable for the purpose of security of the Branch and its employees. Letter to the effect was given by the applicant on 21-11-2012. Further the staff members also gave another representation on 04-12-2012. Respondent No.2 continued her activities of causing nuisance to the employees of the bank. She had entered the cabin of the applicant with three ladies on 22-02-2014 forcibly and then used abusive language to the applicant. She also threatened him not to allow him to work. She was insisting to sanction various loan files. Threat was given that, she would implicate him and the staff members in false complaint. Applicant left his office thereafter for taking lunch at Hotel Mukesh along with one of the staff members. But even at that place the respondent No.2 along with the three ladies went in front of applicant and used abusive language. Applicant therefore submitted a complaint about the incident with police. Offence was registered against the respondent No.2 vide Crime No. 51 of 2014 on 23-02-2014 for the offences punishable under Section 353, 504, 506 read with 34 of the Indian Penal Code.

3. It appears that, after respondent No.2 got the knowledge about the lodging of the report by applicant against her, managed to register an offence against the applicant and two others through one of her companion lady by name Mangal Bhimrao Bhalerao. Offence

vide Crime No. 52 of 2014, dated 23-02-2014 for the offences punishable under Section 354 (A), 323, 506 of Indian Penal Code read with 3 (1) (x) (xi) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. The applicant contends that, lodging of the said FIR is nothing but an act of counter blast. The provisions of Atrocities Act are not applicable because the applicant himself is the member of scheduled caste. Respondent No.2 is indulged in false complaints and has misused the criminal law for unlawful gain for pressurizing the applicant. He has, therefore, prayed for quashing of the FIR.

4. Heard learned Advocate Mr. S. G. Chapalgaonkar for the applicant, learned Addl. Public Prosecutor Ms. P. V. Diggikar for respondent No.1. Respondent No.2 was served and appeared through Advocate Mr. M. P. Tripathi and has filed her affidavit-in-reply.

5. Respondent No.2 has reiterated the contents of the complaint. It is stated by her that, not a single notice was issued to her when the alleged representations made against her. She has denied that, the applicant belongs to Scheduled caste category. The said caste is not recognised in the State of Maharashtra. The applicant had insulted her in public view on 22-02-2014 and he had lodged a false and frivolous complaint against her. In fact, on the same day she

had tried to lodge the report with the police, but it was not taken and therefore she went to police station on 23-02-2014 again, and at that time her FIR was taken. There is absolutely no delay in the lodging of the FIR. Applicant had sanctioned about Rs.15 Lakhs to Rs.20 Lakhs in favour of wife of the Police Inspector Shri Shingare, and therefore the police authorities were not co-operating her. She has undertaken hunger strike and other representations against police authorities. Police ought to have gathered the CCTV footage as a evidence. She therefore tired to submit that the police authorities are intentionally not taking action against the applicant. She prayed for rejection of the application.

6. It has been submitted on behalf of the applicant that, the disputed FIR given by respondent No.2 is nothing but a counter blast. The report lodged by the applicant is prior in time. Nobody had prevented the applicant from lodging the report immediately. Except the bare words of applicant there is nothing on record which would clarify that any such incident had taken place. The conduct of the respondent No.2 is required to be considered.

7. Per contra, it has been submitted on behalf of the respondent No.2 that, being Sarpanch she had accompanied the ladies. however proper treatment was not given by the applicant. On the contrary she was called by the applicant at Mukesh Hotel and when

she went there, the applicant had outraged the modesty of the applicant, therefore no ground is made out to quash the FIR.

8. It is to be noted that, applicant had lodged report against respondent No.2 vide Crime No. 51 of 2014, on 23-02-2014, around 12.20 p.m. Whereas as per the applicant, the incident in question in Crime No. 52 of 2014, took place on 22-02-2014, at about 15.30 hours. She has lodged report around 13.50 hours on 23-02-2014. There appears to be delay in lodging the FIR on the face of the record. The FIR lodged by the respondent No.2 does not explain the delay. Though she has not stated that she had gone to the bank with three ladies, she definitely says that she had gone to the bank on 22-02-2014 prior to 3.30 p.m. with her sister-in-law (brother-in-law's wife). She has also stated that, she had met accused in Hotel Mukesh, but then at that place it is stated that, the applicant misbehaved with her. As regards the report lodged by the applicant is concerned, which is prior in time would show that respondent No.3 had entered his cabin forcibly with three ladies and abused him. No doubt according to him the incident had taken place at 12.00 noon on 22-02-2014 and he had lodged the report on 23-02-2014. He has also not given explanation for the delay. But since his FIR is prior in time, we are required to take note of the same.

9. It is to be noted that, a representation dated 12-04-2006 has

been produced on record stating that the respondent No.2 is a quarrelsome lady and she used to give threat to the people to implicate them in atrocity cases. This representation was given to Deputy Collector in 2006, but thereafter it appears that till 2012 nothing has happened. But on 21-11-2012 the applicant gave letter to Police Inspector, Sailu Police Station stating that the respondent No.2 is making nuisance to the branch and therefore a lady constable be deputed. Thus there is substance in the say of the applicant that, something has happened on 22-02-2014 which had triggered the quarrel or dispute and it has resulted in lodging the reports.

10. It is also to be noted that, the documents produced by the applicant would show that he has been treated as an employee of the bank under 'Scheduled Caste category'. Whether he would be able to get benefit of the caste or not is a different view but for penal action though the caste may not be recognized in any other State but it will not invoke Section 3 (1 (x) (xi) of the Atrocities Act.

11. It appears from the record that, being a quarrelsome lady, respondent No.2 was trying to influence. She says that, she is the Sarpanch and under such circumstance such behaviour is not expected from her. Statements of witnesses have been recorded which show that respondent No.2 had created a scene by shouting.

No doubt most of these witnesses are the employees of the bank. However, at this stage that fact is sufficient to show that no such incident as alleged by the applicant had taken place. Further there are statements of certain villagers from Sailu who are supporting respondent No.2. However, when the evidence show that the FIR lodged by respondent No.2 is with malafied intention, the applicant need not be ask to face the trial. Case is made out for quashing the FIR, hence following order.

ORDER

- 1) Application is allowed.
- 2) Relief is granted in terms of prayer Clause 'B'.
- 3) Rule made absolute in above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.