

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

Criminal Application No.1328 of 2006

- 1) Babasaheb s/o Ambadas Jagtap,
Age 40 years,
Occupation : Agriculturist,
R/o Tamaswadi, Taluka Newasa,
District Ahmednagar.
- 2) Sanjay s/o Nivruti Kolte,
Age 35 years,
Occupation : Agriculturist,
R/o Tamaswadi, Taluka Newasa,
District Ahmednagar.
- 3) Raosaheb s/o Ambadas Jagtap,
Age 36 years,
Occupation : Agriculturist,
R/o Tamaswadi, Taluka Newasa,
District Ahmednagar. **.. Applicants.**

Versus

- 1) The State of Maharashtra,
Through In charge Police Station,
Newasa, Taluka Newasa,
District Ahmed.
- 2) Narmadabai w/o Popat Wahurwagh,
Age 35 years, Occupation : Sarpanch,
R/o Tamaswadi, Taluka Newasa,
District Ahmednagar. **.. Respondents.**

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

Shri. M.M. Nerlikar, Additional Public Prosecutor, for
respondent No.1.

Shri. V.D. Salunke, Advocate, for respondent No.2.

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

Date: 11 JUNE 2018

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

1) The proceeding is filed under section 482 of the Code of Criminal Procedure for quashing of the First Information Report No.39/2006 registered by Newasa Police station for offences punishable under section 3(1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, sections 3 and 7 of the Protection of Civil Rights Act and under sections 323, 504, 506 of the Indian Penal Code. It appears that interim relief was granted by this Court by order dated 26-4-2006 due to which further proceeding in the F.I.R. was stayed. The F.I.R. was given on 10-4-2006. Both the sides are heard.

2) Respondent No.2, first informant has made allegation that in the incident dated 10-4-2006 at about 9.00 a.m. when her husband, Popat, was present in front of the office of the Village Panchayat, the applicants came there and they picked up quarrel with him. The first

informant was working as Sarpanch of village Tamaswadi. Allegations are made that in the incident of quarrel, the applicants questioned her husband as to why she (the Sarpanch) had questioned one Anna Kapse for cutting a tree belonging to the Village Panchayat. It is contended that during quarrel her husband was assaulted by using *chappal* and all the three applicants gave abuses by taking the name of their caste, which is a scheduled caste. Allegations are made that she was also pushed and pulled in that incident by questioning her authority as Sarpanch. She has given names of the persons who were present on the spot. She has contended that the tree belonging to Village Panchayat was cut by Anna Kapse and so he was questioning about it and the incident took place due to cutting of the tree unauthorisedly by the person to whom the present applicants are supporting.

3) The learned Additional Public Prosecutor produced the record to show that some statements were already recorded before grant of interim relief. There is statement of the husband of the first informant showing that he was assaulted in the incident and abuses were

given by all the applicants by taking the name of his caste. There are statements of other witnesses like Abasaheb, Chandrakant, Babasheb and others. Panchanama of the tree which was cut without taking permission showing that it was belonging to the Village Panchayat is also there. This material is sufficient to make out a *prima facie* case against all the applicants. Specific allegations with regard to the incident are also made against the three applicants.

4) The learned counsel for the applicants placed reliance on the observations made in the case reported as **AIR 2011 SC 1905 (Asmathunnisa v. State of A.P.)** and submitted that names of the caste of the accused and also of the first informant were not mentioned in the F.I.R. and on that circumstance the F.I.R. can be quashed. On the point, learned Additional Public Prosecutor has placed reliance on a case reported as **AIR 2009 SC 1973 (Ashabai Machindra Adhagale v. State of Maharashtra)**. In this case the Apex Court has laid down that whether the accused belongs to scheduled caste or scheduled tribe can be gone into when the matter is being investigated. There

cannot be dispute over the proposition that only during investigation this record needs to be collected. At the time of giving of the F.I.R. the first informant cannot be expected to produce the caste certificate. The contentions of the first informant show that it is easy to gather that she was contending that she belongs to scheduled caste mentioned in the F.I.R. It is not the case of the applicants that they do belong to scheduled caste or scheduled tribe. In view of the material collected, this Court holds that the observations made by the Apex Court in the case of Asmathunnisa (cited supra) can be of no use to the applicants. Thus, it is not possible to quash the F.I.R. and the proceedings. In the result, the application stands dismissed. Interim relief stands vacated. Rule stands discharged.

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

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