

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 1781 OF 2014

Trupti D/o. Vikram Andhare,
Age- 33 years, Occu.: Service,
R/o. Majalgaon, Tq. Majalgaon,
Dist. Beed.

... **APPLICANT**

VERSUS

1] Pandharinath Kisanrao Shinde,
Age- 45 years, Occu.: Social Worker,
R/o. Kadi Wadgaon, Tq. Majalgaon,
Dist. Beed.

2] The State of Maharashtra,
Through Police Station Majalgaon (City),
Majalgaon, Dist. Beed.

... **RESPONDENTS**

...
Mr. S. J. Salunke, Advocate for Applicant.
Mr. S. S. Thombre, Advocate for Respondent No.1.
Mrs. V. S. Choudhary, APP for Respondent No.2 / State.

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

DATE : 23rd July, 2018.

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

. The proceeding is filed under Section 482 of the Code of
Criminal Procedure for relief of quashing of FIR and also the case

filed in the Court of Judicial Magistrate First Class, Majalgaon bearing R.C.C. No.50 of 2014. Private complaint was filed by Respondent Pandharinath Shinde against the Applicant.

2 Both the sides are heard.

3 The present Applicant was working as Block Development Officer at Majalgaon at the relevant time. Respondent No.1 is a social worker. He has made allegations against the present Applicant that she did not discharge her duty in respect of one incident. One untoward incident had taken place in Jajidjawad, Taluka Majalgaon, District Beed, Zilla Parishad School. Allegations were made by one girl studying in sixth standard that one teacher employed for class 3rd of the same school had misbehaved with her. On 6th February, 2014, the Headmaster of this school made a report to the present Applicant. Applicant directed inquiry into the incident and report was submitted to her on 7th February, 2014.

4 Allegations against the Applicant is that even when information of cognizable offence was given to her, she did not direct the concerned to give report against the aforesaid teacher. Aforesaid

teacher does not belong to Scheduled Caste or Scheduled Tribe. Present Applicant also does not belong to Scheduled Caste or Scheduled Tribe. The aforesaid victim girl belongs to the Scheduled Caste. Allegations are made that only because the victim girl was Scheduled Caste, present Applicant attempted to protect the said teacher thereby she committed the offence punishable under Section 3(2)(vi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also for the offence punishable under Sections 201 and 212 of the Indian Penal Code.

5 The papers of investigation were made available. The papers show that it is the Applicant, who had given direction to make inquiry and that was done on the basis of report given by Headmaster on 6th February, 2014. Copy of report shows that she had taken the incident seriously and immediately order was made of inquiry. The report of inquiry was submitted on 7th February, 2014 and four members had constituted a committee. They reported that they had formed opinion that said teacher had misbehaved with the girl. More girls had given statements against the said teacher. The record including remand report shows that on the basis of instructions given

by the present Applicant, the Headmaster gave report and crime came to be registered for the aforesaid offence on 8th February, 2014. The submissions made and record show that the case was tried against the said teacher as Special Child Case No.6 of 2014 and the said teacher came to be convicted and sentenced on 2nd May, 2015. He is sentenced to suffer imprisonment for five years for committing the offence under the Protection of Child from Sexual Offences Act and he is convicted for other offences also. He is acquitted of the offence of rape.

6 The record shows that Applicant had taken steps immediately. If the others were interested in lodging the FIR, it was open to them to give report as the offence committed was cognizable in nature. It appears that the parents of the girl are labours and they were working at other place. As the superior officer having supervisory capacity, the Applicant had taken proper steps and only due to her instructions, the FIR was given.

7 The provisions of aforesaid two sections like 3(2)(vi) and Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act show that the act must have been done intentionally

for screening the offender from legal punishment. Section 4 shows that it must be shown that there was willful neglect of the duty. The aforesaid circumstances do not show that there was such intention on the part of the Applicant. It is clear that only to harass the Applicant, the allegations of aforesaid nature are made against her. It will be abuse of process of law, if the Applicant is made to face the trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clauses (C) and (D).
- III. Rule is made absolute in those terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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