

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

**CRIMINAL APPLICATION NO. 1744 OF 2013**

Kantrao S/o Amrutrao Shinde,  
Age : 40 Years, Occu. Agril.,  
R/o Palodi, Tq. Kalamnuri,  
District Hingoli.

... **APPLICANT**

**VERSUS**

1. The State of Maharashtra,  
Through Police Station Officer  
Police Station Kalamnuri,  
Tq. Kalamnuri, Dist. Nanded.

2. Rama S/o Laxman Amale,  
Age : 72 Years, Occu. Agril.,  
R/o Palodi, Tq. Kalamnuri,  
District Hingoli.

... **RESPONDENTS**

...  
Mr. H. V. Patil, Advocate for Applicant.  
Mr. S. J. Salgare, APP for Respondent No.1 / State.  
Mr. Y. K. Delmade, h/f Mr. G. P. Shinde, Advocate for Respondent No.2.  
...

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

DATE : 31<sup>st</sup> 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 No.22 of 2013, registered with Kalamnuri Police Station, for the offences punishable under Sections 465, 466, 420 and 506 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act. Relief is claimed also for quashing of R.C.C. No.30 of 2013. The crime is registered on the basis of report given by Respondent No.2, Rama Amale.

2 Both the sides are heard.

3 Private complaint was filed by present Respondent against the Applicant, which was referred for investigation by the learned Judicial Magistrate First Class, Kalamnuri. The first informant belongs to Scheduled Tribe. As the post of Sarpanch was reserved for Scheduled Tribe, he became Sarpanch of the village Panchayat and present Applicant became Upa-Sarpanch. It is the contention of first informant that the present Applicant was not happy as the first informant, who is belonging to Scheduled Tribe had become Sarpanch and the Applicant used to give abuses by taking the name of the caste.

4           It appears that no confidence motion was moved against the first informant and due to that, first informant lost the post of Sarpanch. After that he was a member of the village Panchayat at the relevant time. Allegations are made that on 12<sup>th</sup> August, 2011, in the meeting of village Panchayat, nothing was informed to him and by obtaining his signature, on blank paper in the meeting, said paper was used as resignation letter from the post of member of village Panchayat. It is contended that the subject in respect of resignation was subsequently added in the minutes of meeting and that way false record was created by the present Applicant and it was offence of cheating.

5           The submissions made show that the resolution of resignation was challenged by filing appeal before the learned Additional Collector and by order dated 31<sup>st</sup> October, 2011, the appeal was allowed and so the Respondent continued to work as a member. Private complaint came to be filed on 14<sup>th</sup> Mach, 2013 when the date of resignation was 5<sup>th</sup> August, 2011. This circumstance cannot be ignored. It can be said that only after getting decision in his favour, the Respondent decided to file the complaint.

6           The papers of investigation include the copy of resolution and also the statement of Gramsevika. Said Gramsevika was grand daughter of Respondent, first informant. Gramsevak / Gramsevika works as secretary of village Panchayat. Her police statement shows that the present Respondent had tendered resignation, resignation was read over in the meeting of village Panchayat and the Respondent had admitted that he wanted to resign from the post. It appears that subsequently, one member filed affidavit in support of the Respondent before the Appellate Authority, but that member gave statement to police to show that the resignation was tendered and during meeting also, the Respondent had admitted that he had tendered the resignation.

7           The appeal is required to be decided by following the principles of natural justice, but for deciding the criminal case, standards are different. The Respondent is admitting that the resignation document bears his signature and there are aforesaid circumstances. In view of these circumstances, this Court holds that it will be abuse of process of law if the Applicant is directed to face the trial for the aforesaid offences. The allegations in respect of giving

abuses by taking the name of the caste are vague and even the incident in which the abuses were given is not mentioned by giving the date and place of the incident. In the result, the following order is passed:

**ORDER**

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (BB).
- III. Rule is made absolute in those terms.

**[ K. L. WADANE, J. ]**

**[ T. V. NALAWADE, J. ]**

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