

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

910 CRIMINAL APPLICATION NO.1838 OF 2015

Raghavendra Shamrao Shirlekar
Age: 52 years, Occ.: Service,
Working as Assistant **...Applicant**
Engineer, M.S.E.D.C.L.,
Jintur Urban, R/o.: Jintur
Dist. Parbhani.

Versus

- 1) The State of Maharashtra,
Through, P.I., Jintur,
Tq.Jintur Dist. Parbhani.
- 2) The District Superintendent
of Police, Parbhani, Dist.
Parbhani.
- 3) Anil s/o Sakharam Pavale,
Age: 52 years, Occ. Counsel, **...Respondents**
R/o.: Jintur Dist. Parbhani.

Mr. S.M. Godsay, learned Counsel for applicant
Mr. S.J. Salgare, learned APP for respondents No.
1 & 2/State
Mr. Prasad Jaware, h/f Mr. S.S. Thombre, learned
Counsel for respondent No.3

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.
DATE : 19-06-2018**

JUDGMENT (PER : K.L. WADANE, J.)

Rule. Rule made returnable forthwith.

With the consent of the parties, the application is taken up for final hearing.

2. The applicant has challenged the first information report bearing Crime No.3037 of 2015, registered against the applicant for the offence punishable under Section 3(1) (10) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities), Act and the charge-sheet bearing Criminal Case No.24 of 2017, pending before the Judicial Magistrate First Class, Jintur, Dist. Parbhani.

3. The brief facts of the case may be stated as follows:

(I) The applicant is serving as an Assistant Engineer in the Maharashtra State Electricity Distribution Co.Ltd., Jintur. The respondent No.3/original complainant has filed complaint against the applicant on 29.03.2015, alleging that when he visited the office of the applicant on 27.03.2015 at about 02.00 p.m. for the inquiry of his electricity bill, at

that time the applicant abused on his caste and also threatened him of dire consequences. It is further alleged that the incident happened in presence of many persons. After the incident, the complainant was confused and mentally shocked, therefore, delay of 2 days is occurred in filing the F.I.R. Upon receipt of the F.I.R., offence came to be registered against the applicant as referred above.

(II) It is the contention of the applicant that the father of the respondent No.3 is a consumer of electricity company, having meter No.540010171703 in the name of his father Sakharam and since more than 3 years, the amount of the bill of electricity was not paid. In the month of February, 2013, the complainant has made a partial payment of a current bill. However, there are arrears of the electricity bill of Rs.1,13,670/- as on January, 2015. Since the complainant or his father was in arrears of the payment of

electricity bill, therefore, a notice under Section 56 of the Electricity Act, 2003 was issued to the complainant/his father. Thereafter, in the month of February, 2015, the respondent No.3 has submitted an application and requested to issue correct bill and also requested not to disconnect the electric supply. At the same time, he filed a suit bearing RCS No.21 of 2015, seeking permanent injunction against Electricity Company (Respondent No.1) from disconnection of the electricity supply.

(III) On 20th February, 2015, the Civil Judge, J.D., Jintur issued notice to the Electricity Company and directed to maintain status-quo on condition that 20% of the arrears of the electricity bill is to be paid or deposited within 3 working days. According to the applicant, even that much amount has not been deposited by the complainant or his father. According to the applicant, the respondent No.3 by taking undue advantage of his caste

and also of the legal knowledge has filed a false and frivolous complaint about a imaginary incident.

4. We have heard arguments of Mr. S.M.Godsay, the learned counsel appearing for the applicant, Mr. S.J.Salgare, the learned APP appearing for respondent Nos.1 and 2 and Mr.Prasad Jaware, the learned counsel, holding for Mr. S.S.Thombre, the learned counsel for respondent No.3.

5. S.M.Godsay, the learned counsel for applicant submits that the complainant is the Assistant Engineer, having no personal grudge against the respondent No.3. He further submitted that the respondent No.3 was in arrears of a huge amount of electricity bill and he was repeatedly insisting to correct the bill. According to the applicant, the correct bill was issued to the respondent No.3 and in the month of January, 2015, his total electricity bill was of Rs.1,13,670/-. According to Mr.Godsay, the respondent no.3 has

filed false complaint so as to avoid payment of electricity bill.

6. As against this, Mr. Salgare, the learned APP appearing for respondent Nos.1 and 2 has argued that the applicant has abused the respondent No.3 on his caste in the public place and that has been witnessed by many people.

7. Looking to the arguments advanced by both the sides, it is material to refer some documents i.e. electricity bill for the month of January, 2015, copy of application given by respondent No. 3 to the Electricity Company for issuance of corrected bills and the copy of the plaint and status-quo order passed by the Civil Court. On perusal of the same, apparently it is seen that the respondent No.3 was in arrears of a huge amount of the electricity bill. As a routine matter or the procedure, a notice was issued to the respondent No.3 to pay the amount of arrears of electricity bill, on which the respondent No.3 was insisting to modify the bill and also

insisting to issue corrected bill. For that purpose the respondent no.3 had not followed the proper procedure for getting corrected bill. Without following the recourse of the law, the respondent no.3 filed a suit for permanent injunction against the Electricity Company (respondent No.1) and prayed for permanent injunction. From the order passed by the learned Civil Judge, J.D., it appears that on 20.02.2015, the learned Civil Judge, J.D., has directed the respondent no.1 (defendant) i.e. electricity Company to maintain the status-quo on the payment of 20% of the arrears of the electricity bill to be deposited or paid by the respondent no.3 within a period of 3 working days.

8. Mr.Godsay, the learned counsel appearing for the applicant further submits that even as per the directions give by the Civil Court, the respondent No.3 has not deposited or paid 20% amount of the arrears of electricity bill. Not only this, but the amount of electricity bill is mounted and as per bill dated 29.05.2018, it

reaches to Rs.2,93,960.13 ps. In spite of the huge arrears of the electricity bill and by filing a false criminal complaint and civil suit, the respondent No.3 is enjoying the electricity energy without paying its arrears.

9. From the above-said circumstances, it appears that the respondent No.3 is trying to defeat the electricity bill by hook and crook, which cannot be allowed, since the Electricity Department is trying to recover the electricity bill. Thus, from the above circumstances, it appears that filing of the F.I.R. against the officers of the M.S.E.D.C.L. is the outcome of the dispute between the Electricity Company and the respondent No.3. So on the face of record, it appears that the complaint filed against the applicant appears to be false, in the circumstances, as indicated above and continuation of such prosecution is nothing but abuse of process of law.

10. In view of the above, following order is

passed.

ORDER

(i) The application is allowed in terms of prayer Clause B & C-1.

(ii) Criminal Application is disposed of accordingly.

(iii) Rule made absolute in above terms.

[K.L. WADANE]
JUDGE

[T.V. NALAWADE]
JUDGE

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