

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

CRIMINAL APPLICATION NO. 1917 OF 2006

1. Sadashiv s/o Govinda Tayde,
Age 55 years, Occ. Sarpanch/Agri.
& Ex-Director of D.C.C. Bank.
2. Laxman s/o Sadashiv Tayde,
Age 35 years.
3. Sampat s/o Govind Tayde,
Age 45 years.
4. Deochand s/o Govind Tayde,
Age 40 years.
5. Ishwar s/o Sampat Tayde,
Age 28 years.
6. Deochand s/o Bhika Tayde,
Age 52 years.
7. Fakirchand s/o Bhika Tayde,
Age 54 years,
8. Babu s/o Shamrao Bawaskar,
Age 30 years,
9. Santosh s/o Pandu Tayde,
Age 30 years,
10. Bhika s/o Ranguba Dangode,
Age 45 years,
11. Kailash s/o Vithal Sonwane,
Age 30 years,
12. Manoj s/o Vithal Sonwane,
Age 28 years.
13. Dattu s/o Yadavrao Sonwane,
Age 38 years.
14. Vishnu s/o Sampat Tayade,
Age 28 years.

15. Dagadchand s/o Khanderao Tayade,
Age 28 years.

All Occup. Agril. And R/o. Andhari,
Tq. Sillod, Dist. Aurangabad.

... Applicants
(Ori. accused)

VERSUS

1. The State of Maharashtra.
2. Dadarao Kisan Wankhede,
Age 30 years, Occ. Contractor
R/o. Andhari, Tq. Sillod,
Dist. Aurangabad.

... Respondents
(Respondent No. 2 is
original informant)

...

Advocate for Applicants : Mr. Ambar Barlota, h/f
Mr. S.K. Barlota.

APP for respondent No. 1/State : Mr. S.J. Salgare.

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

DATE : 22nd June, 2018.

ORAL JUDGMENT : (PER T.V. NALAWADE, J.)

1. Rule. Rule made returnable forthwith. With the consent of the parties, this application is taken up for final disposal.

2. The proceeding filed under section 482 of the Code of Criminal Procedure for quashing of supplementary charge-sheet filed by the Investigating Agency in the year 2006 in Reg. Criminal Case No. 326/2003 in the Court of Judicial Magistrate First Class, Sillod. The case is filed for the offences

punishable under section 325, 452, 427, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and under section 135 of the Bombay Police Act. This charge-sheet was filed on 20.12.2003. Initially, the crime was registered for offence punishable under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989. To challenge the same, the applicants filed Criminal Application No. 988/2003 for relief of quashing of first information report. The said proceeding was partly allowed by this Court and F.I.R. registered for the offence punishable under section 3(1)(x) of the aforesaid Special Act was quashed and set aside. This order was made on 13.11.2003. It appears that the investigating officer filed supplementary charge-sheet in the year 2006 for the offences punishable under section 3(1)(v), 3(1)(xi) of the aforesaid special enactment. With the supplementary charge-sheet, the supplementary statements of witnesses are also produced.

3. Learned counsel for applicants submits that even if the material is read as it is, the allegations made in the supplementary statement also do not make out the newly added offence in the charge-sheet and so

the supplementary charge-sheet needs to be quashed and set aside.

4. This Court has carefully gone through the statements of male person and also the female persons to ascertain as to whether the offence is described in aforesaid two provision of the special enactment are committed. The allegations show that the accused persons had forcibly entered into the house of the witness, who belongs to scheduled castes. Some household articles were damaged and assault was made, both on female and male persons. However, no lady member has made allegation that there was dishonour or outrage of modesty. Thus material, as it is, does not show that there was outrage of modesty or attempt was made to interfere in the possession of the witness over the immovable property. The intention also was not of that sort as per the allegations made in the supplementary statement.

5. At present the case is pending in the Court of Judicial Magistrate First Class, Sillod, and if the supplementary charge-sheet is considered, the case will go to Special Court. There is virtually no material to make out aforesaid offences or any other offence from the Scheduled Castes and Scheduled Tribes (Prevention

of Atrocities) Act. For that also this Court has carefully gone through the material and also the provisions of the aforesaid Act. It can be said that only to create seriousness in the matter such an attempt is made. It is surprising that even when this Court had quashed and set aside the offence registered under the aforesaid special enactment, the investigating officer showed a courage to file supplementary charge-sheet for the aforesaid offences when those offences are not made out by the allegations made by the witnesses. This Court holds that the relief needs to be given. In the result, following order is passed.

ORDER

- 1 The application is allowed.
- 2 Relief is granted in terms of prayer clause 'C'.
7. Rule is made absolute in aforesaid terms.

(K. L. WADANE, J.)

(T.V. NALAWADE, J.)

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