

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

CRIMINAL APPLICATION NO. 2171 OF 2008

WITH

CRIMINAL APPLICATION NO. 292 OF 2009

1. Tulshiram Raghunath Navale,
Age 45 years, Occ. Agriculture,
and Police Patil.
2. Dadasaheb s/o Rambhau Bansode,
Age 32 years, Occ. Agriculture.
3. Ashok s/o Jagnnath Jadhav,
Age 33 years, Occ. Agriculture.
4. Vijay s/o Vishwanath Jadhav,
Age 25 years, Occ. Agriculture.
5. Santosh s/o Kundlik Navale
(Korhale), Age 21 years, Occ.
Agriculture.
6. Baban s/o Murlidhar Navale,
Age 40 years, Occ. Agriculture.
7. Ankush s/o Subhash Bansode,
Age 19 years, Occ. Agriculture.
8. Eknath Waman Navale, Age 42
years, Occ. Agriculture.
9. Sachin s/o Dagu (Dattu) Navale,
Age 22 years, Occ. Agriculture.

10. Anna s/o Ramu (Damu) Patil
(Tathe), Age 32 years, Occ. Agril.
11. Arun s/o Subhash Navale,
Age 19 years, Occ. Agriculture.
12. Dattu s/o Kachru Navale,
Age 45 years, Occ. Agriculture.
13. Parasram s/o Yadav Jadhav,
Age 45 years, Occ. Agriculture.

All r/o. Akoli Wadgaon, Tq.
Gangapur, Dist. Aurangabad.

... **Applicants**
(Ori. accused)

VERSUS

1. The State of Maharashtra.
2. Ashok s/o Ramnath Allahat,
Age 27 years, Occ. Labour,
R/o. Akoli Wadgaon, Tq.
Gangapur, Dist. Aurangabad.

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

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Advocate for Applicants : Mr. K.F. Shingare.
APP for respondent No. 1/State : Mr. R.V. Dasalkar.
Advocate for Respondent No. 2 : Mr. S.R. Pande.

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

DATE : 16th July, 2018.

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

1. Rule. Rule made returnable forthwith. With the consent of the parties, this application is taken up for final disposal.
2. This application is filed by the applicants under the provisions of section 482 of the Code of Criminal Procedure for relief of quashing of first information report No. I-76/2008, dated 24.06.2008 registered with Sillegaon police station, Tq. Gangapur, for the offences punishable under section 143, 147, 149, 323, 504 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. Heard Mr. Shingare, learned counsel for applicants, Mr. Dasalkar, learned APP for the respondent/State.
4. Mr. Shingare, learned counsel, submits that the allegations against the applicants are absolutely vague and there is no specific allegations against each of the applicant. Therefore, the first information report needs to be quashed and set aside. Learned counsel for applicants further submits that there is delay of about 20 days in filing the first information report. He further submits that the applicant No. 1 has also filed first information report No. 56/2008 against the respondent No. 2

on 04.06.2008 relating to the alleged incident of dated 04.06.2008 at about 9.30 a.m.

5. Learned APP opposed this application on the ground that there are specific allegations against each of the applicants and the offence committed by the applicants is serious one. In view of the specific allegations against the each of the applicants the relief in favour of the applicants may not be granted.

6. On perusal of the first information report lodged by the applicant No. 1 bearing Crime No. 56/2008 it appears that it is alleged by the applicant No. 1 against the respondent No. 2 and others that on 04.06.2008 the respondent No. 2 and others have entered into the house of applicant No. 1 and threatened him to kill. In this first information report there is reference of the incident dated 03.06.2008. Therefore, even from the allegations in the first information report No. 56/2008 it appears that some incident had occurred on 03.06.2008. With this background it is necessary to examine the allegations against each of the applicants.

7. On perusal of the contents of the first information report No. I-76/2008, it appears that the respondent No. 2 alleged that on 03.06.2008 at about 10 a.m. when he was in his house at that time the

applicant No. 2 Dadasaheb, applicant No. 3 Ashok, applicant No. 4 Vijay, applicant No. 5 Santosh came there and they were insisting to sign on the representation for prohibition of the liquor. When both of them refused to sign on such representation, the aforesaid applicants abused the respondent No. 2 and his uncle.

8. Thereafter at about 2 p.m. all the accused persons came there at that time respondent No. 2 was taking lunch. As the respondent No. 2 and his uncle refused to sign representation, therefore applicant No. 9 Sachin and applicant No. 2 Dattu abused on his caste by saying, “Mahardya Majla”. Applicant No. 3 Ashok slapped him and other applicants abused him on caste. It is specific allegations that the Police Patil Tulshiram i.e. applicant No. 1 insisting to assault the complainant by saying, “Mahare Lay Majlet”. Further it is alleged that the applicants No. 3, 4 and 9 abused the respondent No. 2 by saying “Maharde”. On the basis of the first information report given by the respondent No. 2, offence came to be registered against the applicants as referred above.

9. On careful scrutiny of the allegations in the first information report itself it appears that there are specific allegations against applicants no. 1, 3, 4, 9 and 12 about abusing the respondent No. 2 on his caste and assaulting him. Their acts are specifically narrated by the

respondent No. 2 in the first information report itself. On the other hand the allegations against the applicants No. 2, 5 to 8, 10, 11 and 13 are absolutely vague and it is alleged that all the other accused persons abused the respondent No. 2 on his caste. So looking to the vague allegations against the aforesaid applicants and taking into consideration the allegations in the first information report, no prima-facie case is made out against the applicants No. 2, 5 to 8, 10, 11 and 13. Therefore, continuation of prosecution or the criminal case against them is nothing but an abuse of process. In view of the above, following order is passed.

ORDER

1. Application of applicants No. 2 Dadasaheb Rambhau Bansode, applicant No. 5 Santosh Kundlik Navale (Korhale), applicant No. 6 Baban s/o Murlidhar Navale, applicant No. 7 Ankush s/o Subhash Bansode, applicant No. 8 Eknath Waman Navale, applicant No. 10 Anna s/o Ramu (Damu) Patil (Tathe), applicant No. 11 Arun s/o Subhash Navale, and applicant No. 13 Parasram s/o Yadav Jadhav is allowed.
2. Relief is granted in their favour in terms of prayer clause 'C'.
3. Application for applicants No. 1 Tulshiram Raghunath Navale, applicant No. 3 Ashok s/o Jagannath Jadhav, applicant No. 4 Vijay

s/o Vishjwanath Jadhav, applicant No. 9 Sachin s/o Dagu (Dattu) Navale, and applicant No. 12 Dattu s/o Kachru Navale, stands rejected. Interim relief granted in their favour stands vacated.

10. Pending Cri. Application stands disposed of.

11. Rule is made partly absolute in the above terms.

(K. L. WADANE, J.)

(T.V.NALAWADE, J.)

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