

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

**Criminal Application No.2384 of 2010  
With  
Criminal Application No.4986 of 2015**

\* Shaikh Khalid Wahed,  
Age 32 years,  
Occupation: Business,  
R/o Khajanagar, Osmanabad,  
Taluka & District Osmanabad. .. **Applicant.**

**Versus**

- 1) The State of Maharashtra.
- 2) The Sub Divisional Police Officer,  
Osmanabad,  
Taluka & District Osmanabad.
- 3) The Police Inspector,  
City Police Station, Osmanabad,  
Taluka & District Osmanabad.
- 4) Sunil s/o Ramrao Sherkhane,  
Age 40 years,  
Occupation: Business,  
R/o Sunil Cushion Makers,  
Z.P. Complex,  
Opp. City Police Station,  
Osmanabad,  
Taluka & District Osmanabad. .. **Respondents.**

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Shri. A.S. More, Advocate, for applicant.

Shri. S.J. Salgare, Additional Public Prosecutor, for  
respondent Nos.1 to 3.

Shri. S.J. Salunke, Advocate, for respondent No.4.

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

**Date: 27 JULY 2018**

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

1) The proceeding is filed under section 482 of the Code of Criminal Procedure for the relief of quashing of Crime No.253/2009 registered with City Police Station Osmanabad for offence punishable under sections 452, 506, 34 etc. of Indian Penal Code and section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Both the sides are heard.

2) The crime is registered on the basis of report given by one Sunil Sherkhane. The incident took place on 3-12-2009. Allegations are made that on that date at 10.30 p.m. after closing the shop when he had returned home and he was watching programme on T.V. with his wife Rekha and issues and he was taking dinner, somebody knocked the door. According to him, Rekha opened the door and after that present applicant entered his house. It

is contended that one more person aged about 30 to 35 years was with him and he gave abuses by taking the name of his caste which is a scheduled caste. Threats of life were also given. They were questioning the first informant as to why he had declared support to candidate Rana Patil for M.L.A. election which was declared and for which the first informant had also filed nomination. After giving threats and abuses, they left the house of the first informant. Allegations are made that those persons knew that the first informant is of scheduled caste. Present application is filed by Shaikh Khalid Waheb whose name is mentioned in the F.I.R.

3) Learned counsel for the applicant submitted that in view of provision of section 3(1)(x) of the aforesaid special enactment it was necessary to show that the incident took place within public view. He placed reliance on the observations made by the Apex Court in the case reported as **AIR 2008 SC 441 (Swaran Singh v. State)**; and, also the case reported as **AIR 2011 SC 1905 (Asmathunnisa v. State of A.P.)**. In both the cases, the Apex Court has laid down that it is required that words

uttered are in any place within public view, means that the public must have viewed the incident of insulting. There can be no dispute over the proposition. In the first case relevant observations are at paragraph 28 and they are as under:-

"**28.** It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by appellants 2 and 3 (by calling him a 'Chamar') when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression 'place within public view' with the expression 'public place'. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."

4) The aforesaid observations show that the place can be a private place yet within public view. It is observed that even if remark is made inside a building,

the but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in public view. In view of these observations and the number of persons who had entered the house and the fact that one neighbour of the first informant heard the incident as per police record, this Court holds that the relief cannot be granted to the applicant. There was motive for the crime and the F.I.R. was given immediately. In the result, the application stands dismissed. Interim relief is vacated. Rule is discharged. Criminal Application No.4986/2015 stands disposed of.

Sd/-  
**(K.L. WADANE, J.)**

Sd/-  
**(T.V. NALAWADE, J.)**

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