

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 710 OF 2014

Shrikant s/o. Popat Karle,
Age 31 years, Occu. Business & Agri.,
R/o. Khandala, Tq. Nagar,
Dist. Ahmdnagar.

....Petitioner.

Versus

1. The State of Maharashtra
Through Poice Station Officer
Nagar Taluka Police Station,
Nagar, Dist. Ahmednagar.

2. Arun s/o. Vithal Bansode,
Age 37 years, Occu. Labour,
R/o. Khandala, Tq. Nagar,
Dist. Ahmednagar.

....Respondents.

Mr. N.V. Gaware, Advocate for petitioner.

Mr. M.M. Nerlikar, APP for respondent No. 1/State.

Mr. A.G. Ambetkar, Advocate for respondent No. 2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 10/10/2018.**

JUDGMENT : [PER T.V. NALAWADE, J.]

1) Correction is to be made in the prayer clause to mention 'Protection of Civil Rights Act' instead of 'Human Rights Protection Act'. Correction is to be made immediately.

2) The petition is filed under Articles 226 and 227 of Constitution of India and section 482 of Criminal Procedure Code for

the relief of quashing of F.I.R. No. 36/2014 registered for the offences punishable under sections 7 (1) (d) of Protection of Civil Rights Act and section 3 (1) (x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Both the sides are heard.

3) The crime is registered on the basis of report given by respondent No. 2 Arun Bansode. His wife Shalini was Sarpanch of village Khandala since the year 2010. He has made allegations that the present applicant was asking his wife to see that land of Sudam Gaikwad and Dharma Jadhav is given to Sunil Girhe under Government scheme of Gharkul.

4) The first informant has made allegations that on 23.5.2014 at 11.30 a.m. when he was present in Village Panchayat Office, applicant came there, picked up quarrel and assaulted him. Some persons of the village rescued him. The F.I.R. was given on 12.6.2014. It is the contention of respondent that on 23.5.2014 itself he had approached police and he had given report, but no F.I.R. was registered and N.C. was registered for offences punishable under sections 323, 504 and 506 of IPC. It is his contention that only when he approached the superior officer of police department, his F.I.R. was registered and that is the reason for delay. It appears that supplementary statement was then recorded and then the crime

for aforesaid offences came to be registered.

5) The submissions made and the record show that the wife of the first informant got elected from Christain (OBC) category. Copy of another F.I.R. given by the wife of first informant dated 31.5.2013 is produced to show that one piece of land allotted to Sudam Gaikwad under Gharkul scheme was not utilised and the applicant was requesting the Sarpanch to see that the land was transferred in the name of Sunil Girhe as he had purchased the piece of land allotted to Sunil Gaikwad from his widow Nanubai. That crime was registered under section 353, 506 etc. of IPC. The record shows that on 21.7.2013 the first informant had given one more report that threats were given to him and on that occasion also, N.C. was registered against him by police. It appears that there is some dispute due to politics and the respondent, husband of the Sarpanch requested police to see that externment order is made against the present applicant. He has made allegations that police were protecting the present applicant and that is why, they were not registering the crime under P.C.R. Act and Atrocities Act.

6) The papers of investigation show that allegations are made that present applicant was saying that the respondent, first informant was not Christian, but he was belonging to scheduled

caste and by that the respondent was insulted. In view of the political rivalry and the circumstance that there is no independent corroboration to the aforesaid allegations made against the applicant that he took the name of caste of first informant and the circumstance that initially only N.C. was registered and there was no allegation that name of the caste was taken, this Court holds that relief needs to be granted. It will be abuse of process of law if the applicant is made to face the trial for aforesaid offences. Some incident did take place, but there was no reason for taking the name of caste of the first informant and that can be seen from the record. The circumstance that the wife is using caste certificate of Christian (OBC) and the husband is using caste certificate of scheduled caste also needs to be kept in mind. In the result, the application is allowed. Relief is granted in terms of prayer clause 'B'. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/