

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

CRIMINAL APPLICATION NO. 3509 OF 2012

1. Ramrao s/o. Nanasaheb Avhale,
Age 60 years, Occu. Agri.,
R/o. Sakegaon, Tq. Vaijapur,
Dist. Aurangabad.
2. Santram s/o. Sarjerao Avhale,
Age 50 years, Occu. Agri.,
R/o. Sakegaon, Tq. Vaijapur,
Dist. Aurangabad.
3. Ramesh s/o. Ashok Avhale,
Age 35 years, Occu. Agri.,
R/o. Sakegaon, Tq. Vaijapur,
Dist. Aurangabad.
4. Dadasaheb s/o. Waman Avhale,
Age 45 years, Occu. Agri.,
R/o. Sakegaon, Tq. Vaijapur,
Dist. Aurangabad.
5. Santosh s/o. Dadasaheb Avhale,
Age 17 years, Occu. Student,
R/o. Sakegaon, Tq. Vaijapur,
Dist. Aurangabad.
6. Sau. Sunita w/o. Dadasaheb Avhale,
Age 36 years, Occu. Agri.,
R/o. Sakegaon, Tq. Vaijapur,
Dist. Aurangabad.

....Applicants.

Versus

1. The State of Maharashtra
2. The Police Station Incharge,
Shiur Police Station, Tq. Vaijapur,
Dist. Aurangabad.
3. Anil s/o. Sudham Avhad,
Age 32 years, Occu. Agri.,
R/o. Sakegaon, Tq. Vaijapurj,
Dist. Aurangabad.

....Respondents.

Mr. N.K. Kakade h/f. Mr. A.N. Kakade, Advocate for applicants.

Mr. M.M. Nerlikar, APP for respondent Nos. 1 and 2.

Mr. G.G. Suryawanshi, Advocate for respondent No. 3.

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

DATED : JUNE 12, 2018.

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

1) The proceeding is filed under section 482 of Criminal Procedure Code for the relief of quashing of F.I.R. No. 75/2007 registered in Shiur Police Station, Tahsil Vaijapur, District Aurangabad for the offences punishable under sections 452, 149, 323, 504 etc. of Indian Penal Code (hereinafter referred to as 'IPC' for short) and section 3 (1) (x) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. Both the sides are heard.

2) The crime is registered on the basis of report given by one Anil Avhad, residing of Sakegaon, Tahsil Vaijapur. According to him, in incident dated 10.9.2007 the present applicants had manhandled him and had given abuses by taking the name of his caste which is scheduled caste. Allegations are made that for assaulting him, they had virtually entered his house. According to him, the applicants were angry as he had refused to discharge the customary duty of beating drum on the occasion of Pola. In respect

of the incident dated 10.9.2006, the F.I.R. was given on 16.9.2006. In the same F.I.R., he has contended that in the past false F.I.R. was given against him by one lady of the village that he had misbehaved with her.

3) The record is produced to show that one lady had given report against the present applicant on 11.9.2007 in respect of incident dated 10.9.2007 and the crime was registered for the offences punishable under sections 354 and 506 of IPC. She had made allegations that in the night time when she was present in front of her house and when she was washing articles, the applicant had come there, he had held her hand and he had misbehaved with her. The submissions of the learned counsel for the respondent, first informant that false report was given to pressurise the respondent and that was done after assaulting the respondent, is not acceptable. Nobody would involve a lady who was probably aged about 50 years in such an incident for teaching lesson to person like respondent. There is possibility that after the incident, which happened with the aforesaid lady, the respondent was taught a lesson by the villagers and he preferred not to give report immediately and the report filed is afterthought in nature. It will be abuse of process of law, if the applicants are made to face the trial of the case for aforesaid offences. Due to the aforesaid

circumstances, this Court holds that relief needs to be granted in favour of applicants. In the result, the application is allowed. Relief is granted in terms of prayer clause 'B'. Rule is made absolute in those terms.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/