

2. Respondent No. 2 herein lodged complaint with Judicial Magistrate First Class, Mahur, alleging that he had gone to the Police Station, Mahur in the night intervening 30.04.2010 and 01.05.2010 to lodge complaint against five *Banjara* persons, as they had beaten and abused him. At that time, one Police Naik S.K. Dhage was present in the police station as P.S.O. He avoided to take complaint of respondent No. 2. On 01.05.2010 at about 6.30 a.m., applicant came into police station for flag hoisting and abused him by taking name of his caste in verbatim 'अबे महारड्या, माझ्या नातेवाईकांना त्रास देतो काय' and mercilessly beaten him. Then the complainant filed a complaint to the Superintendent of Police Nanded and its copies were given to District Magistrate Nanded. The Judicial Magistrate First Class referred the matter under Section 156(3) of Cr.P.C., on the basis of which offence as referred came to be registered against the applicant.

3. Heard Mr. U. B. Bilolikar, learned advocate for applicant and Mrs. V. S. Choudhary, learned APP for the Respondent State.

4. We have gone through the papers of investigation and report submitted by the Deputy Superintendent of Police, Division Mahur to Superintendent of Police, Nanded dated 09.08.2010. Perused the

statements of the various witnesses, those are quoted in report dated 09.08.2010 at sr.no. 1 to 11. On perusal of statements of witnesses No. 1 to 3, it appears that witness at sr.no. 1 is complainant, witness no. 2 is mother and witness no. 3 is the father of the complainant. Witnesses No. 5 to 9 are the police officials, who have stated that no incident has taken place as has been alleged by the complainant and that is also supported with the statement of witness sr.no. 10 Munaf Ismail, Member of Peace Committee, Mahur. Further, it appears that there is delay in filing the first information report and complaint. Therefore, the first information report and the papers of investigation are not sufficient to even *prima facie* constitute offence under the S.C. & S.T. Act. Most of the independent witnesses have not supported the allegations made by the respondent No. 2 in the complaint as well as in the first information report.

5. In view of the above, the application is allowed.

6. First information report bearing Crime No. 4 of 2012 registered with Mahur Police Station, Dist. Nanded for the offence punishable under Sections 3(1) (x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and under Section 323 of the Indian Penal

Code and Criminal Proceeding in RCC No.19 of 2012, pending before the learned J.M.F.C., Mahur are hereby quashed and set aside.

7. Rule is made absolute in the above terms.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC