

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

CRIMINAL APPLICATION NO. 3491 OF 2007

1. Vishwanath s/o. Dnyanoba Saruk,
Age 62 years, Occu. Agri.,
R/o. Nandgaon, Tq. Washi,
Dist. Osmanabad.
2. Sambhaji s/o. Vishwanath Saruk,
Age 30 years, Occu. Agri.,
R/o. As above.

....Applicants.

Versus

1. The State of Maharashtra
Through Police Inspector,
Rural Police Station,
Washi, Dist. Washi,
Dist. Osmanabad.
2. Sonaji s/o. Lahu Shinde,
Age 20 years, Occu. Agri.,
R/o. Nandgaon, Tq. Washi,
Dist. Osmanabad.

....Respondents.

Mr. M.S. Karad h/f. Mr. S.S. Thombre, Advocate for applicants.

Mr. S.J. Salgare, APP for respondent No. 1/State.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.
DATED : JULY 5, 2018.**

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

1) The proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of F.I.R. No. 74/2007 registered with Washi Police Station, District Osmanabad for offences punishable under sections 326, 324, 34 etc. of Indian Penal Code

and sections 3 (1) (x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. 1989. Both the sides are heard.

2) The papers of investigation show that F.I.R. is given by one Sonaji Shinde. He is resident of Nandgaon, Tahsil Washi and he belongs to schedule caste. His uncle is Police Patil of Nandgaon.

3) The incident in question took place on 2.8.2007 in the village of first informant. The first informant and his brother Balaji were present in front of their respective houses. Allegations are made that in the first incident Suresh Saruk, son of applicant No. 1 Vishwanath came to them and picked up quarrel. Allegations are made that by taking the name of caste, he gave abuses and gave threats to them. Allegations are made that after some time, Suresh came again and this time with his brother Sambhaji and father Vishwanath. They started giving abuses and started saying that they were there to cut limbs of first informant and his brother Balaji. After hearing their shouting when Balaji came out of the house, accused were abusing them and then Sambhaji and Vishwanath assaulted Balaji with fist blows and kicks. Allegations are made against Suresh that he used sickle and gave blow of sickle on the head of Balaji. Beating was given to the first informant by using stone. The F.I.R. was given on the same day.

4) The papers of investigation include the injury certificates in respect of both the aforesaid persons. Though the injuries are simple, they show that on the day of incident, they were referred to Government Hospital by police, history of assault was given and they were medically examined. There are statements of eye witnesses which corroborate the aforesaid contentions made in the F.I.R. Thus, it cannot be said that false allegations are made and no offence is committed. Whether offence is committed under section 326 of IPC or not, that can be considered by the Trial Court. In the result, the application is dismissed. Interim relief is vacated. Rule is discharged.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/