

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

CRIMINAL APPLICATION NO. 3473 OF 2008

Fahim Miyan Sk. Bagwan	...	Applicant
Age 25 years, Occu: Business		(Orig. Accused)
R/o Gujri Chowk, Bagban Galli, Near		
Jama Masjid, Mudkhed, Dist. Nanded		

VERSUS

- | | |
|----------------------------------|--------------------|
| 1. The State of Maharashtra | |
| 2. Police Inspector | Respondents |
| Mudkhed Police Station, Mudkhed, | |
| Dist. Nanded. | |

Mrs. Sunita D. Shelke, Advocate for the applicant

Mr. R. V. Dasalkar, APP for Respondents/ State

CORAM	: T. V. NALAWADE AND K. L. WADANE, JJ.
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DATE:	: 18th July, 2018.
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JUDGMENT (Per K. L. Wadane,J.):

1. Rule. Rule made returnable forthwith. With consent of parties, the application is taken up for final disposal.

2. The application is filed under section 482 of the Code of Criminal Procedure for relief of quashing of first information report of Crime No.52/2008 registered with Mudkhed Police Station, Dist. Nanded for offences punishable under sections 353, 352 of the Indian Penal Code under sections 3(1)(10) of the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act.

3. The complainant Kanoba Jalba Bokefode, lodged the first information report on 09.09.2008 alleging that he was working as Sweeper with the Municipality and was collecting garbage and dust on cycle-rickshaw alongwith his colleague Anil Kandhare. At about 4.00 p.m. they have cleaned the area near Jama Masjid and were carrying the garbage/dust in cycle-rickshaw (Ghantagadi) and while passing through Gujar Chowk, the accused Faim Miya Shaikh abused the complainant on his caste, asking the complainant as to why he did not collect garbage/dust from his shop and assaulted the complainant with kick and fist blows and pushed down the cycle-rickshaw which was loaded with garbage. It is alleged that the applicant accused repeatedly abused the complainant on his caste, in verbatim "Mangadge". On the basis of the said complaint and due to the nature of the allegations, the offence as referred above crime was registered against the applicant.

4. Heard Mrs. Shelke, learned counsel for the applicant and Mr. Dasalkar, learned APP for Respondents State.

5. On perusal of contents of the first information report it appears that the complainant is a sweeper and was collecting

dust/garbage. Allegations against the applicant are that he abused the complainant by referring to his caste for not collecting dust in front of his shop and also assaulted the complainant with kick and fist blows. The applicant repeatedly abused the complainant by referring his caste, in verbatim "Mangadge" i.e. Mang which is scheduled caste.

6. It appears that there are specific allegation of abuse on caste are against the applicant. The alleged incident of abuse on caste is said to be taken place within a public view i.e. at Gujari Chowk, while complainant was performing his duty of collecting garbage alongwith his colleague Ashok Kandhare. Looking to the nature allegations it cannot be said that there is no prima facie case against the present applicant. In view of seriousness of the allegations, it is not desirable to prevent the police from making further investigation and to reach to the conclusion. This Court finds no reason to interfere in the matter.

7. In view of the above, the criminal application is rejected. Interim relief is vacated. Rule is discharged.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC