

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

CRIMINAL APPLICATION NO. 3703 OF 2008

- 1) Bhagwan Sopan Patil, Age 46 years,
Occ. Service.
- 2) Digambar Subhash Kolhe,
Age 32 years, Occ. Service.
- 3) Bhaskar Madhav Kolhe,
Age 68 years, Occ. Agril.

Applicants No. 1 to 3
R/o Shindi, Tq. Bhusawal,
Dist. Jalgaon.

- 4) Kautik Mitharam Mahajan,
Age 60 years, Occ. Retired
Head Master, Plot No. 10,
Purushottam Nagar, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon.

... **Applicants**
(Original accused)

VERSUS

1. The State of Maharashtra.
2. Sanjay Prabhakar Sapkale,
Age 35 years, Occ. Labour,
R/o. Shindi, Tq. Bhusawal,
Dist. Jalgaon.

... **Respondents.**
(respondent No. 2 is original
complainant)

...

Advocate for Applicants : Mr. R.R. Kakani, h/f Mr. R.R. Mantri.
APP for respondent No. 1/State : Mr. M.M. Nerlikar.

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

DATE : 2nd AUGUST, 2018.

JUDGMENT (PER K.L. WADANE, J)

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

2. This application is filed by the applicants/original accused under the provisions of section 482 of the Code of Criminal Procedure for relief of quashing the first information report No. 32/2008, registered with Peth, police station Bhusawal, Dist. Jalgaon, for the offences punishable under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, read with section 294, 323, 506 read with section 34 of the Indian Penal Code.

3. The brief facts of the case may be stated as follows:

(i) Respondent No. 2/original complainant lodged complaint on 04.08.2008 by alleging that on 04.08.2008 at about 10 a.m. near Ashtabhuja Devi, at Bhusawal, when the complainant was standing there at that time applicants No. 1 and 2 came near the complainant and asked him as to why he helps Bhimrao Tayde in police station matter. At that

time complainant told them that he has no concern with the applicants No. 1 and 2 and their institution. At that time applicants No. 1 and 2 said him that, “Tumhi Sale Dhed Nich Jatiche” and both of them spit on the face of complainant. They also threatened to kill the complainant and assaulted him with fists and kick blows. The applicants No. 1 and 2 also called applicant No. 3 Bhaskar Kolhe, who is Chairman of the Society and applicant No. 4 Kautik Mahajan, who is secretary of the Society. Applicants No. 3 and 4 came there and said that, “Tumhi Dhede Lok Nich Jatiche”. The applicants assaulted the complainant by fist and kick blows and gave abuses in filthy language. They also spit on the face of complainant. With these allegations, offence came to be registered against the applicants for the offences punishable under section under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with section 294, 323, 506 read with section 34 of the Indian Penal Code.

4. We have heard the arguments of Mr. Kakani, learned counsel for the applicants, Mr. Nerlikar, learned APP for the respondent No.1/State.

5. Looking to the allegations in the first information report it appears that the incident had taken place in a public view and public

place i.e. near Ashtabhujadevi at Bhusawal. There are specific allegations against the applicants that they abused the complainant on his caste by saying "Dhede nich jatiche". It is specifically mentioned in the complaint that the applicants spit on the face of complainant and also assaulted him with fists and kick blows. The role of each of the applicants has been specifically mentioned in the first information report. Therefore, it cannot be said that there is no prima facie case against the applicants.

6. 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. Hence, Criminal Application is rejected. Interim relief is vacated. Rule is discharged.

8. Criminal application is disposed of.

(K. L. WADANE, J.)

(T.V. NALAWADE, J.)

mkd/-