

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

CRIMINAL APPLICATION NO. 4697 OF 2016

1] Dattatraya s/o Sitaram Chaudhari,
Age: 56 years, Occu: Agriculture
R/o : Village Kalamsara, Taluka:
Pachora, District: Jalgaon.

2] Vilas s/o Dattatraya Chaudhari,
Age: 32 years, Occu: and
R/o : As above.

...Applicants/Accused

Versus

1] The State of Maharashtra,
through the Sub Divisional Police
Officer, Pachora Sub Division,
Pachora, District: Jalgaon.

2] The Superintendent of Police,
District: Jalgaon.

3] Pravin s/o Supdu Gangurde,
Age: 30 yrs, Occu: Agriculturist
R/o Post. Kalamsara; Ta: Pachora
Dist. Jalgaon.

...Respondents.

Mr. R. S. Deshmukh, Advocate for Petitioners.

Mr. A.A. Jagatkar, APP for Respondent/State Nos.1 and 2.

Mr. Prasad Jarare, Advocate for Respondent No.3.(appointed)

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 02/11/2018.**

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

1) Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2) The proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of the case filed in F.I.R. No. 13/2016 registered with Pimpalgaon Police Station, Tq. Pachora, District Jalgaon for offences punishable under section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 323, 34 of Indian Penal Code. The case is pending in the Court of Judicial Magistrate, First Class, Pachora, District Jalgaon.

3) The F.I.R. was given by respondent No. 3 Pravin, who is resident of Kalamsara, Tahsil Pachora. Applicants are residents of the same place. The F.I.R. dated 1.3.2016 was given in respect of the incident dated 4.11.2015. According to the first informant, at about 11.30 a.m. when he was proceeding towards Lohara near the office of Village Panchayat, he met Pandit Patil and he was having talk with him. He has made allegations that the applicants were proceeding on their motorcycle by that side and after seeing the first informant, they stopped their motorcycle and applicant No. 2 gave threat that he would see that the first informant is removed from service. Allegations are made that abuses by taking the name of his caste were given by the applicants by giving reference of the report given by the first informant against nephew of applicant No. 1. Allegations

are made that he was then assaulted by both the applicants and applicant No. 1 tried to finish him by throttling him. Allegations are made that in the incident, both the applicants then forcibly poured cow-dung into his mouth. He has made allegations that the applicants then gave abuses by taking the name of Dr. Babasaheb Ambedkar. According to him, the incident was witnessed by Pandit Patil and Sudhakar Chaudhary.

4) It is the contention of the first informant that on 5.6.2015 he had given report against Subhash Chaudhary and his son Gunwant under the provisions of Atrocities Act and crime was registered against them. Subhash died on 3.9.2015. According to him, no action was taken on the basis of previous F.I.R, but due to the said report given by him, the incident took place on 4.11.2015.

5) The learned counsel for applicants took this Court through the various complaints made against the first informant by the villagers which include complaint dated 10.12.2015. It was specifically in respect of the grievance informed by the first applicant to police in respect of incident dated 4.11.2015. The villagers had informed that the first informant was misusing the circumstance that he was belonging to scheduled caste and he was creating rift in two communities by making false allegations on the basis of caste and

by using the name of Dr. Babasaheb Ambedkar. The villagers had informed that such incident did not take place and if the incident had really taken place at the place mentioned, many persons would have noticed that incident. A copy of another representation given by panch committee of both the communities dated 21.11.2013 is produced and in that, the persons of both the communities informed to District Collector that present first informant was filing false reports against the villagers and he was creating rift between different communities of the village. Copy of application given by Sudhakar Chaudhary against whom the complaint was made by the first informant is also produced and it is dated 17.7.2015. He had raised grievance that he and his panel had contested the Village Panchayat election and only out of political rivalry false report was given against him and his son by the present first informant. The same witnesses were mentioned in report filed against Subhash.

6) Some record is produced to show that in the past, the first informant was working as Police Patil of the village and for some time, he was also Sarpanch of the village and he was giving complaints against the villagers which were apparently false. One order was made showing that he was removed from the post of Police Patil with effect from 11.10.2015. The submissions made show that allegations were made not only of the aforesaid nature, but of extracting money by the first informant from the villagers.

Submissions made show that the order was set aside, but again he was placed under suspension due to subsequent reports.

7) The record and submissions show that in the past, action was taken by villagers to remove the encroachment made by the first informant and his men on Government property and the encroachments were actually removed. There is probability that due to that action, the first informant was angry. There is record of aforesaid nature and it appears that even resolution was passed against the present respondent in Gram Sabha due to his overall conduct.

8) On the other hand, the learned counsel for first informant submitted that the two witnesses named in the F.I.R. had approached police on 26.4.2016 with the grievance that some persons including applicants were pressurizing them that they should not act as witnesses in such cases. It was submitted that in police protection, these two witnesses were taken to police station and their statements were recorded. In addition to aforesaid record, there is voluminous record showing that villagers are living peaceful life and they have grievance that only the first informant is misusing the caste card and he is giving reports against the persons of other community and he is trying to create rift in the persons of different

communities.

9) There is no corroboration except of aforesaid nature to the allegations made by the first informant and on the contrary, he had reasons to give report against the present applicants. Due to these circumstances, this court holds that it will be abuse of process of law if the applicants are made to face the trial for aforesaid offences. In the result, the application is allowed. Relief is granted in terms of prayer clause 'C'. The fees of the learned counsel appointed for respondent No. 3 is quantified as Rs.3,000/- (Rupees three thousand) which is to be paid through the High Court Legal Services Sub Committee, Aurangabad. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/