

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2704 OF 2018

Sachin s/o Sureshrao Dhanpalwar,
Age 45 years, Occu: Service,
R/o Umari, Tq. Umari, District: Nanded,
At present R/o. Udgir, Tq. Udgir,
District Latur.

... APPLICANT

VERSUS

1. The State of Maharashtra,
Through P. I. Police Station
Udgir, District Latur.

2. Radhabai w/o Pandurang Chimole,
Age 60 years, Occu: Nil,
R/o Ashok Nagar, Udgir,
Tq. Udgir, District Latur.

... RESPONDENTS

...
Mr. Sushant C. Yeramwar, Advocate for Applicant.
Mrs. D. S. Jape, APP for Respondent No.1 / State.
Mr. Hanumant P. Jadhav, Advocate for Respondent No.2.
...

CORAM : **T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 03rd December, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

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

2 The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of C.R. No.54 of 2018, registered with Udgir Police Station, District Latur, for the offence punishable under Section 354-A of the Indian Penal Code and Section 3(1) (r) (s) (w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The crime is registered on the basis of report given by Respondent No.2.

3 The present Applicant is working as a supervisor with the office of D.S.L.R, Udgir and his job is to make measurement of agricultural lands, to fix the boundary and boundary marks. In the past, he was working as T.I.L.R. in Tahsil Office. There is some dispute between Respondent No.2 and the local body, Udgir with regard to immovable property. Civil Suit is also pending between the parties. In the year 2015, Surveyor was appointed to take measurement of the property by Civil Court and this work was given to

the present Applicant by the office. In that year, Respondent No.2 had obstructed the measurement and so the application was moved for police help. It appears that the order of police help was made very late, after one year and the Court had directed to complete the work of measurement as Court Commissioner.

4 The Applicant had issued notices to the concerned and on 27th March, 2018, measurement was taken in the presence of parties and police. It is the allegation of the first informant that for getting copies of work of measurement, she visited the house of Applicant with her nephew, Sandip Suryawanshi on 30th April, 2018 at about 05:10 pm and when she approached the Applicant, he misbehaved with her. She has made allegations that he gave abuses by taking the name of her caste, which is scheduled caste and he virtually touched her chest and made her to sit on a chair and he had held her hands firmly. It is her contention that her nephew, Sandip Suryawanshi and one Devidas, who is a friend of nephew were in her company and in their presence, there was more misbehavior and the Applicant had virtually made her to touch the private part. It is her contention that her nephew, Sandip Suryawanshi had done the video

shooting by using the mobile phone. The report came to be given on 5th April, 2018 and crime came to be registered at 08:00 pm on that day.

5 The submissions made and record, which is considered by this Court in anticipatory bail application show that this Court, learned Single Judge, had opportunity to see the so-called video shooting. He did not notice any abuses given by taking the name of caste or intentional misbehavior as alleged. Anticipatory bail was granted to him due to falsity in the allegations.

6 This Court has gone through the statements of employees of the office of Applicant. They show that no such incident took place. Though there is statement of nephew of the first informant, there is no statement of so-called friend of the nephew of first informant in support of the allegations. Thus, there will be two statements of the first informant and her nephew. There was a reason for her to make false allegations as probably the Applicant did not succumb to her pressure and he was preparing the map as per the measurement actually made by him. The record is sufficient infer that right from

beginning the first informant was not allowing the public officers to do the needful like taking measurement or complying the order made by the Civil Court. Due to all these circumstances, this Court holds that if case is allowed to be filed against the Applicant, it will be abuse of process of law. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (B).
- III. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]