



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.759/2015 registered with Mukundwadi Police Station, District Aurangabad for offences punishable under section 3(1) (2) and 10 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and sections 504 r/w 34 of the Indian Penal Code.

3. The complainant Panchshila alias Panchfulla Uttam Telgaonkar, lodged the first information report on 14.10.2015 alleging that she belongs to Mahar Caste (Scheduled Caste). On 14.10.2015, she had been to morning walk alongwith her neighbour Nanda Shendge. While on the way of return, the complainant found applicant No.1 dumping garbage/sweepings in front of house of the complainant. The complainant asked applicant no.1 not to dump the sweepings in front of her house, upon which applicant No.1 started abusing her. Thereafter mother of applicant No.1 came out of house, she also started abusing the complainant. Then father, i.e. present applicant No.2 namely Shamrao Shirse came there and abused the complainant on caste, in verbatim "Maharmangache". Thereafter applicant No.3

Nilelsh came out of house and also abused the complainant. It is alleged that the accused No.2 Shirse is aware of the fact that complainant belongs to Mahar caste and he abused the complainant on her caste in presence of one Nanda Shendge at a public place. Thereafter, the complainant lodged a complaint against the accused persons. On the basis of the said complaint and due to the nature of the allegations, the crime was registered against the applicants/accused for the aforesaid offences.

4. During investigation, the Investigating Officer has recorded statement of witnesses namely Sunita Rasal, Arjun Rasal, Nanda Shendge, Nitin Telgaonkar and Uttam Telgaonkar and also recorded the supplementary statement of the complainant.

5. Heard Mr. S. R. Kolhare learned counsel for the applicants, Mr. S. B.Pulkundwar, learned APP for Respondent No.1 State and Mr. Ajinkya Reddy, learned counsel for respondent No.2.

6. Learned counsel for the applicants submits that applicant No.2 Shamrao Kisanrao Shirse is died on 13.04.2016. Death certificate is produced on record.

7. Witness Nanda Shendge who was stated to be accompanying the complainant has stated in her statement that accused have abused the complainant. She has specifically stated that Applicant No.2 Shamrao Shirse abused the complainant on her caste. Statements of all these witnesses are in line with the contents of the first information report. Almost all the allegations which are appearing in the first information report are reproduced in the statements of the witnesses.

8. Perusal of the first information and statements of witnesses recorded by the investigating officer shows that specific allegations of abuse on caste are against applicant No.2 Shamrao Shirse who is stated to be died during pendency of the application. Allegations against applicant Nos. 1 and 3 appears to be vague.

9. Looking to the entire allegations it appears that allegation of abuse on caste are against father of applicants 1 and 3 i.e. Applicant No.2 who is no more. The alleged incident of abuse on caste is said to be taken within a public view. However the accused against whom the allegations of abuse on caste in

public view are made is no more. Secondly, even if the allegations in the first information report are taken at its face value, there is no specific instance or material particular against applicant Nos. 1 and 3. There are vague allegations of abuse against applicant Nos. 1 and 3.

10. In view of the aforesaid circumstances this Court holds that it will be abuse of process of law to allow the first informant to go ahead with the case and nothing can be achieved if charge sheet is filed for the aforesaid offences. In the result following order :

**O R D E R**

11. Application for dead Applicant No.2 is abated.

12. Application for applicant Nos. 1 and 3 is allowed in terms of prayer clause (B).

13. Rule made absolute in aforesaid terms.

**(K. L. WADANE, J.)**

**(T. V. NALAWADE, J.)**

JPC