

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

CRIMINAL APPLICATION NO. 6472 OF 2015

- 1) Bhagwan s/o Govindrao Pawar,
Age 42 years, Occ: Service as Teacher,
R/o Raiwadi, Tq. Loha, Dist. Nanded.
- 2) Chandrashekar s/o Devidasrao More,
Age 28 years, Occ: Legal Practitioner,
R/o Behind District Court, Kandhar,
Tq. Kandhar, Dist. Nanded.
- 3) Sau. Shantabai w/o Devidasrao More,
Age 60 years, Occ: Household,
R/o Behind District Court, Kandhar,
Tq. Kandhar, Dist. Nanded.

... APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector
Police Station, Kandhar,
Tq. Kandhar, Dist. Nanded.
- 2) Sandeep s/o Prakashrao Sabne,
Age 31 years, Occ: Service,
R/o Balaji Mandir Galli, Mukhed,
Tq. Mukhed, Dist. Nanded.

... RESPONDENTS

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Mr. V. D. Salunke, Advocate for Applicants.

Mr. R. V. Dasalkar, APP for Respondent No.1 / State.

Mr. R. N. Dhorde, Senior Counsel, i/b Mr. V. R. Dhorde, Advocate for Respondent No.2.

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

DATE : 08th August, 2018.

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

. The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.144 of 2015, registered with Kandhar Police Station, District Nanded.

2 Both the sides are heard.

3 The crime is registered on the basis of report given by Respondent on 25th November, 2015. The first informant is working as a teacher in Sant Namdeo Maharaj Madhyamik Vidyalaya, Panshevdi, Taluka Kandhar. Applicant No.1 was Headmaster of this school at the relevant time and Applicant No.2 was Secretary of the institution. Applicant No.3 was in the management of the institution, which runs the school.

4 The Respondent had grievance that even when he was entitled to the scale of Assistant Teacher, he was being given only

Rs.6,000/- per month by the school and so he was insisting the institution that the scale should be given to him. It is contended that he belongs to Scheduled Caste and even when the Applicants knew that, to harass him and to exploit him, they were not giving him the salary as per the scale. It is contended that to exploit him, they obtained Rs.4,00,000/- from him and the amount was paid by him by cheque. It is contended that the cheque was encashed by the present Applicants and it was credited in the account of Applicant No.1.

5 It is the contention of the first informant that even when there were directions of competent authority and of this Court to give regular scale to the first informant, the Applicants were avoiding to give regular scale and also bills presented by the first informant for reimbursement. It is contended that on 14th September, 2015, when he requested the Applicants to see that the regular scale was given to him and his bills were sanctioned, all the Applicants gave abuses to him by taking the name of his caste, which is scheduled caste. It is contended that they gave threat to him to remove him from service and they insulted him. In respect of incident dated 14th September,

2015, report was given on 25th November, 2015 and the crime came to be registered.

6 The learned counsel for Applicants submitted that on 7th November, 2015, the Respondent, first informant had given another report by making similar allegations, but in that report, the present incident was not mentioned and so it can be said that the things are exaggerated to pressurize the Applicants. Copy of application given to police on 7th November, 2015 is produced on record, but it does not show that the crime was registered on that basis.

7 The submissions made show that the Respondent was removed from service by the Applicants and only due to the order made by the School Tribunal, he came to be reinstated. It is not disputed that orders were made by the competent authority and this Court against the Applicants to see that the salary is given as per the scale to the Respondent. It is not disputed that in the account of Applicant No.1, there is a credit entry showing that the amount of Rs.4,00,000/-, which was given by cheque by the Respondent. There is no record with the Applicants to show that the amount was returned, but the learned counsel for Respondent, first informant

admitted that amount of Rs.3,60,000/- out of the amount of Rs.4,00,000/- was returned to the Respondent. There is a grievance that remaining amount of Rs.40,000/- is not returned. This circumstance needs to be kept in mind as the first informant, who belongs to Scheduled Caste has made allegations that he was being exploited by the Applicants.

8 The learned counsel for Applicants submitted that the Respondent is the nephew of sitting MLA and he is using influence to take action against the present Applicants. This submission cannot be accepted. Papers of investigation show that other employees of the school witnessed the incident mentioned in the FIR and there are statements in corroboration of the version given by the Respondent in the FIR. There are other circumstances mentioned as above. In view of the aforesaid circumstances, crime is registered not only for the offence punishable under Section 420 read with 34 of the Indian Penal Code, but for the offence punishable under Section 3(1)(x) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act and one more Section of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act. There is sufficient material to

make out the *prima-facie* case. In the result, the following order is passed:

ORDER

- I. The application is dismissed.
- II. Interim relief is vacated.
- III. Rule is discharged.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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