

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.67 OF 2018

Vinod Vaigankar and Anr.

... Petitioners

Versus

State, Thr.Dy.S.P./S.D.P., Saligao Police Station,
Saligao and others .

.... Respondents

Mr. Rohit Bras De Sa, Advocate for the Petitioner.

Mr. S.R.Rivanr, Public Prosecutor for Respondent no.1.

Mr. S.Keny, Advocate holding for Mr.Pavithran A.V. Advocate U/LAS
for Respondent no.2.

***Coram : R.M. Borde &
Prithviraj K. Chavan, JJ.***

Date : 30 November 2018.

P.C. :

By this petition under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, the petitioners herein have impugned an order dated 16.1.2018 passed by the learned Special Judge, Panaji in Special Case No.5/2017 allowing the application of the prosecution/respondent no.1 to make amendment in the charge-sheet filed against the petitioners under Sections 352, 504, 506 Part II read with Section 34 of the Indian

Penal Code and under Section 3 (1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. We have heard the learned counsel for the petitioners and the learned Public Prosecutor for the respondent no.1.

3. The petitioners have been charge-sheeted by the Respondent no.1 under various sections of the Indian Penal Code as above and Section 3 (1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In short, it is alleged that the petitioners, in furtherance of their common intention, not only threatened and abused the original complainant namely Mrs.Pramila P. Moraskar by using bad words but also abused her by her caste name (Chamarin) within public view on 1.10.2016 between 08.45 hours to 09.00 hours at Mae-De Deus Vaddo, Sangolda, Bardez. It appears that the Investigating Officer inadvertently quoted Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 instead of Section 3(1) (r) and (s) of the said Act, which came to be substituted in the said Act on 1st January 2016. Thus, it was an error which even otherwise could have been rectified by the learned Special Judge at the time of framing of charge against the petitioner. Be that as it may. Even otherwise the ingredients of

the substituted clause (r) and (s) of Section 3(1) of the Act are similar to the amended provisions of Section 3(1) (x) of the said Act. As such, there is no question of quashing of the impugned order passed by the learned Special Judge.

4. We are afraid, we cannot buy the arguments of the learned counsel for the petitioners that unless supplementary charge-sheet as contemplated under Section 173 (8) of the Code of Criminal Procedure is filed by the Investigating Officer, the Special Judge cannot amend the charge-sheet, for the reasons stated hereinabove. Moreover, there is no question of any further investigation to be made in the present case.

5. For the reasons aforesaid, the petition is devoid of merits and hence needs to be dismissed. The Criminal Writ Petition stands dismissed.

Prithviraj K. Chavan, J.

R.M. Borde, J.