

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1052 OF 2017

Shri.Dayanand Shivaji Mane ... **Applicant**

V/s.

The State of Maharashtra & Anr. ... **Respondents**

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Mr.Akshay A. Kulkarni with Mr.Sarvajit B. Patil, Advocate for the Applicant.

Mr.A.R.Kapadnis, APP for the Respondent/State.

Ms.Megha S. Bajoria, Advocate for the Respondent No.2.

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CORAM : A.M.BADAR J.

DATED : 6th AUGUST 2018.

ORAL JUDGMENT :

1 By this appeal, the appellant/accused No.4 is challenging the Order dated 25/04/2017 passed by the learned Special Judge, Jaysingpur, District Kolhapur rejecting his prayer for discharge in Special Case No.2 of 2016 for offences punishable under Sections 354(A)(1)(3) and (4) read with Section 34 of the Indian Penal Code and under Sections 3(1)(x) and 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) as well as under Section 7(1)(d) of the Protection of Civil

Rights Act.

2 Heard the learned Advocate appearing for the appellant/accused No.4. He drew my attention to the FIR lodged by Geeta Pakhare and argued that ingredients of the alleged offences are not established from the FIR. Similarly, my attention is drawn to the Order releasing the appellant/accused on bail to demonstrate that the FIR was because of political rivalry. It is argued that the appellant/accused was at the distance of 200 k.m. from the spot of the incident at the time of the incident and, therefore, he needs to be discharged from the alleged offences.

3 The learned Additional Public Prosecutor opposed the application by contending that no case for discharge is made out.

4 I also heard Ms.Bajoria, the learned Advocate appointed to represent the respondent No.2/Geeta Pakhare/First Informant. She argued that there are eye-witnesses to the incident in question.

5 I have carefully considered the rival submissions and also perused the record made available.

6 On 08/09/2015, the FIR came to be lodged by Geeta Ganesh Pakhare Sarpanch of Khidrapur Grampanchayat. The

incident in question took place on 08/09/2015 when meeting of the Grampanchayat was being held. When that meeting was going on, at about 10.45 a.m., the accused persons including the present appellant Dayanand Shivaji Mane came to the office of Grampanchayat. They disrupted the proceedings of the meeting. It is alleged in the FIR that co-accused Dilip Kuge had asked for some certificate in respect of completion of water supply scheme to the Khidrapur Village. Upon that First Informant/respondent No.2 Geeta Pakhare informed him that the matter is pending in the Court. It is averred by the First Informant that then the present appellant gave castiest abuses to her and uttered that the power has gone in the hands of persons belonging to *chambhar* caste and then the co-accused uttered that within four days the power will be taken away from persons belonging to *chambhar* caste. Other accused persons then used obscene language. That is how the crime in question came to be registered. There are eye-witnesses to the incident in question.

7 The discharge can be granted only when it is demonstrated that there is no sufficient ground to proceed against the accused persons. Some *prima facie* material raising high suspicion is enough to frame the charge. In the case in hand, apart from version of respondent No.2/First Informant, who belongs to Scheduled Castes, there are statements of eye-witnesses reflecting *prima facie* material for proceeding against the

appellant/accused No.4. No case for discharge as such, is made out.

8 In this view of the there is no infirmity in the impugned Order rejecting the prayer of discharge.

9 The appeal is, therefore, dismissed.

(A.M.BADAR J.)