

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 159 OF 2018

Bhagwan Singh	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. K. N. Karde I/by K. H. Kamble for Applicant.
Mrs. M. R. Tidke, APP for Respondent – State.

**CORAM : NITIN W. SAMBRE, J.
DATE : APRIL 19, 2018.**

P.C. :

1. This Revision Application is by the Applicant – Accused in SC/ST Special Case No. 6 of 2016 pending on the file of the Sessions Judge, Greater Bombay questioning the order dated 21st February 2018 rejecting the Application (Exhibit – 3) preferred under Section 227 of the Code of Criminal Procedure for discharge.

2. It is the case of the present Applicant that he is Plaintiff in civil dispute in L. E. Suit No. 55/72 of 2010 which was decreed on 6th

August 2015 by the Judge, Small Causes Court at Mumbai directing the Complainant and other Defendants therein to deliver vacant possession of the suit premises which are owned by the Complainant. According to him, in the said background, the Applicant is falsely implicated in the aforesaid crime. He would urge that the complainant is impleaded as Defendant No. 3 in the said L. E. Suit.

3. Apart from above, the learned Counsel for the Applicant while questioning the order of discharge would invite attention of this Court to the First Information Report lodged by the complainant resulting into registration of the crime punishable under Sections 3 (1) (x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. It is further claimed that the necessary ingredients for invoking the said provisions against the Applicant – Accused are not made out. He would then urge that the First Information Report came to be lodged on 11th September 2015, whereas the incident in question took place on 9th September 2015. The delay of two days is not explained. According to him the learned Sessions Judge while dealing with the Application has failed to consider the above said aspect of the matter.

4. The learned Counsel then would urge that the learned Sessions Judge recorded incorrect finding of fact by referring to the statement of witnesses namely, Neelam Anil Chaudhari, Kamlesh Narayan More and Sharad Ramchandra Rane. He would then urge that the incident in question is recorded in two parts. The earlier part took place in the Court Room and later in the Corridor of the court. The said fact is not appreciated by the court below. It is further claimed that the impugned order rejecting the prayer for discharge is liable to be set-aside with directions to discharge the Accused needs to be issued.

5. The learned APP resisted the claim and would urge that the order passed by the learned Sessions Judge is just and proper which does not warrant any interference. According to the learned APP, there is sufficient material on record to infer prima facie involvement of the Applicant in the crime in question.

6. The Applicant is facing prosecution in sessions trial i.e. SC/ST Special Case No. 6 of 2016 for an offence punishable under Sections 3(1) (x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Sections 504, 506 and 323 of the Indian Penal Code. No doubt,

there is a delay of about two days in lodging the First Information Report, however, the said delay is explained by the witnesses and the Complainant in their statement.

7. Apart from above, the fact remains that the presence of the Applicant – Accused at the spot of the incident is not in dispute. It is also apparent from the record that there exist medical evidence to demonstrate that the victim was required to attend hospital on the very same day of the assault.

8. The contents in the FIR depicts about the civil dispute and registration of Crime No. 26 of 2008 pending on the file of Metropolitan Magistrate, 18th Court at Girgaum, Mumbai for an offence punishable under Sections 467, 468, 471, 34 of the Indian Penal Code. However, the statement of all the witnesses namely, Navin Keshavlal Gohil and Laxman @ Balu Bhau Shelar supports the case of the prosecution. Though the statement of other witnesses namely, Sharad Ramchandra Rane, Neelam Anil Chaudhari and Kamlesh Narayan More does not speak of the utterances of the caste based insulting words in their presence, however, the Applicant's conduct of resisting and buying the court staff, after the

matter was adjourned, is specifically reflected in the statements of the witnesses. Three witnesses speaks of a hearsay case for the Atrocities Act, however, in view of the statements of the witnesses referred in the earlier observations which *prima facie* speaks of involvement of the Applicant.

9. In this background, no case for interference is made out. The Revision Application fails.

10. As such, Revision Application is dismissed.

(NITIN W. SAMBRE, J.)