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

**CRIMINAL APPEAL NO. 736 OF 2018**

Dharmendra Ramchandra Shishupal & Ors.                      .. Appellants  
Vs.  
The State of Maharashtra & Ors.                                      .. Respondents

Mr. Nitin Sejpal a/w. Ms. Pooja Sejpal, Mr. Hiren Mehta for the Appellants.  
Mr. J. P. Yagnik, APP for the Respondent-State.  
Mr. Santosh H. Chari for Respondent No.2.

**CORAM : R. M. SAVANT AND V. K. JADHAV, JJ.**  
**DATE : 21<sup>st</sup> NOVEMBER, 2018.**

**P. C.**

1. The above Appeal challenges the order dated 04.04.2015 passed by the learned Ad hoc Additional Sessions Judge, City Civil and Sessions Court, Mumbai. By the said order, the application filed by the Petitioner for discharge under Section 227 of the Code of Criminal Procedure came to be rejected. In so far as the charge-sheet filed under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for the sake of brevity 'the Act') is concerned, at the outset, the learned APP Mr. Yagnik informed the Court in so far as the charge-sheet under the Act is concerned, the same has been filed only against Appellant No.3 Amar Singh Bahadur Singh and not against the other Appellants. In view thereof, the above Appeal has been proceeded only in so far as Appellant No.3 Amar Singh Bahadur Singh is concerned. At this stage, it would be apposite to refer to the order

passed by the Trial Court i.e. the learned Ad hoc Additional Sessions Judge. The reasons for rejecting the application filed by the Appellants have been crystallized in paragraph 7 of the said order. It is recorded in the said paragraph 7 that the consideration that would weigh whilst considering an application for discharge is whether there is material to prosecute/frame the charge against the Appellant/Accused. The trial Court has referred to the supplementary statement of the first informant dated 17.05.2014 which goes to show that there are caste abuses hurled by the Appellants to the first informant Milind Kamble. The Trial Court has referred to the statement of Mayur B. Thorat wherein it is specifically stated that the Appellants have hurled caste abuses. Based on the aforesaid material, the Trial Court has concluded that the material on record goes to show that there is sufficient evidence on record to frame charge and prosecute the Appellant i.e. Appellant No.3 herein. The Trial Court has thereafter observed that the FIR is not an encyclopedia and it is not necessary that every fact should be stated in the FIR. The order of the Trial Court is, therefore, founded on the aforesaid facts.

2. The learned Counsel appearing on behalf of the Appellant Mr. Sejpal endeavours to make out a case by drawing our attention to the statements of the first informant recorded on 14.05.2014, thereafter on 18.05.2014 and thereafter to the complaint dated 17.05.2014 received by the Deputy

Commissioner of Police on 09.06.2014. It was the submission of Mr. Sejpal that the statements of the first informant do not spell out the ingredients of the offence under Section 3 of the Act. We have perused the said statements. The first statement dated 14.05.2014 was recorded at the stage when the Appellant had suffered an injury to the head and thereafter the statement dated 18.05.2014 was recorded when the first informant had recovered from the injury which fact he has stated in the said statement. In the statement dated 18.05.2014 he has specifically made a reference to the complaint dated 17.05.2014 which he had made to the police and which he desires to be investigated by the police. In so far as the complaint dated 17.05.2014 is concerned, perusal of the said complaint discloses that the first informant has alleged that caste abuses were hurled at him by the Appellants, now only the Appellant No.3.

3. In our view, therefore, the instant case is not a case where a case for discharge has been made out by the Appellant No.3. The Appeal is, accordingly, dismissed.

4. Needless to state that the trial would proceed on its own merits and in accordance with law without being influenced by the instant order.

[V. K. JADHAV, J.]

[R. M. SAVANT, J.]