

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 14/2018

(ANIL SITARAM JAISWAL **VERSUS** STATE OF MAHARASHTRA & ANOTHER)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri A.P. Tathod, counsel for the applicant.
 Shri S.S. Doifode, A.P.P. for the NA-1.
 None for the non-applicant no.2.

CORAM : SMT. VASANTI A NAIK AND
A.D. UPADHYE, JJ.

DATE : FEBRUARY 13, 2018.

By this criminal application, the applicant seeks the quashing and setting aside of the first information report registered against the applicant for the offence punishable under Sections 294 and 506 of the Penal Code and Sections 3(1) and 3(4) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Atrocities Act' for the sake of brevity).

The applicant is serving as an Assistant Teacher in Zilla Parishad Primary School at Dhosa in Yavatmal district. The non-applicant no.2 is working as a headmaster in the said school. It is the case of the applicant that the non-applicant no.2 is of quarrelsome nature and used to harass the applicant and threaten him that he would implicate him in false cases under the provisions of the Atrocities Act. The applicant had made complaints to the Block Education Officer, Yavatmal against the non-applicant no.2 on 02.12.2016, 26.12.2016, 07.01.2017 and 20.07.2017 alleging therein that the non-applicant no.2 was harassing the applicant and was making it difficult for him to work in the school. It was also alleged in each of the complaints made by the applicant to the Block Education Officer that the non-applicant no.2 always threatened the applicant

that he would involve him in false cases under the provisions of the Atrocities Act. It appears that on 12.12.2017, a complaint was lodged by the non-applicant no.2 in the non-applicant no.1-Police Station that on 07.12.2017, the applicant had abused the non-applicant no.2 in the name of his caste and in filthy language. It is alleged in the said complaint that the applicant had brought a stone in his hand and had threatened to kill the non-applicant no.2. It is also alleged in the complaint that though he had made a grievance about the incident dated 07.12.2017 to some of the education authorities, they have not taken any action against the applicant and hence, he was required to lodge the report against the applicant. On the basis of the report lodged by the non-applicant no.2, an offence was registered against the applicant under Sections 294 and 506 of the Penal Code and Sections 3(1) and 3(4) of the Atrocities Act. The applicant had sought for the quashing and setting aside of the said first information report.

Shri Tathod, the learned counsel for the applicant, submitted that the non-applicant no.2 has lodged a false complaint against the applicant with a *mala fide* intention to wreck vengeance against the applicant, with whom he was on inimical terms since the applicant had made several complaints against him to the Block Education Officer, Yavatmal. It is stated that the provisions of the Atrocities Act would not be attracted even if the allegations in the complaint made by the non-applicant no.2 are accepted at their face value. It is submitted that since the applicant and the non-applicant no.2 were on inimical terms, the non-applicant no.2 has falsely lodged the complaint against the applicant. It is stated that the applicant had made it known to the Block Education Officer by at least four complaints that the non-applicant no.2 had threatened that he would implicate the applicant in false cases under the provisions of the Atrocities Act.

Shri Doifode, the learned Additional Public Prosecutor appearing for the non-applicant no.2, submitted that on the basis of the report lodged by the non-applicant no.2, the first information report was registered against the applicant. It is, however, fairly admitted that it is not clear from the first information report as to which of the sub-Sections of Section 3 of the Atrocities Act were invoked against the applicant. It is submitted that the statements of the employees in the school were recorded and on the basis of the same, the first information report was registered. It is submitted that the applicant had abused the non-applicant no.2 in filthy language.

None appears for the non-applicant no.2, though served.

On hearing the learned counsel for the applicant and the non-applicant no.1 and on a perusal of the documents annexed to the criminal application as also the statements of the employees in the school, it appears that the applicant has made out a case for quashing and setting aside of the first information report registered against him. More than a year before the lodging of the complaint by the non-applicant no.2, the applicant had made complaints to the Block Education Officer, Yavatmal bringing it to his notice that the non-applicant no.2 was harassing the applicant and was not permitting him to work in the school. It was also mentioned in the four complaints made by the applicant to the Block Education Officer that the non-applicant no.2 was threatening him that he would implicate him in false cases under the provisions of the Atrocities Act. It appears that the Block Education Officer did not do anything in the matter and a complaint was lodged by the non-applicant no.2 on 12.12.2017 alleging therein that on 07.12.2017, the applicant had abused him in the name of his caste as he belong to Gond Scheduled Tribe and had threatened to kill him. We have perused each of the complaints made by the applicant to the Block Education Officer. We have perused the

complaint lodged by the non-applicant no.2 before the non-applicant no.1 on 12.12.2017. We do not find from the allegations in the complaint lodged by the non-applicant no.2 that the offence under the provisions of Sections 294 and 506 of the Penal Code or Sections 3(1) and 3(4) of the Atrocities Act could be made out against the applicant. In fact we do not find sub-Sections 1 and 4 in Section 3 of the Atrocities Act. Even if the allegations in the complaint are accepted at their face value, at the most it could be said that the applicant has abused the non-applicant no.2 in filthy language. The statements of the employees that were recorded by the Investigating Officer are perused by us. None of the employees have stated in their statements that the applicant had abused the non-applicant no.2 in the name of his caste. It is only stated that after the non-applicant no.2 prevented the applicant from signing the register, the applicant threw the register and took a large stone in his hand and threw it on the ground. None of the employees had stated that the applicant had threatened to kill the non-applicant no.2 or that he had abused the non-applicant no.2 in the name of his caste. In this background, an offence could not have been registered against the applicant under Section 506 of the Penal Code and Section 3 of the Atrocities Act. We find that in view of the long standing enmity between the applicant and the non-applicant no.2, the non-applicant no.2 has lodged the false complaint against the applicant. The complaints made by the applicant to the Block Education Officer, Yavatmal clearly show that the applicant had expressed an apprehension that he would be implicated by the non-applicant no.2 in false cases under the provisions of the Atrocities Act. It is held by the Hon'ble Supreme Court in the judgment in the case of *State of Haryana Versus Bhajanlal*, reported in (1992) SCC Criminal 426 that where the complaint is maliciously lodged with an ulterior motive for wrecking vengeance on the accused and with a view to spite

him due to private and personal grudge, the first information report could be quashed and set aside. By following the law laid down by the Hon'ble Supreme Court in the aforesaid judgment, it would be necessary to quash and set aside the first information report registered against the applicant.

Hence, for the reasons aforesaid, the criminal application is allowed. The first information report registered against the applicant for the offences punishable under Sections 294 and 506 of the Penal Code and Sections 3(1) and 3(4) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is hereby quashed and set aside.

Order accordingly.

JUDGE

JUDGE

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