

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2778 OF 2018

1. Devidas S/o Premraj Kumawat,
Age : 57 years, Occu.: Service,
R/o : Neri Bk., Tq. Jamner, District Jalgaon.
2. Bapu @ Narayan Shankar Kumawat,
Age : years, Occu.:
R/o : Neri Bk., Tq. Jamner, District Jalgaon. ... **APPLICANTS**

VERSUS

1. The State of Maharashtra,
Through Superintendent of Police,
Jalgaon, District Jalgaon.
2. The Police Inspector,
Jamner Police Station, Jamner,
Tq. Jamner, District Jalgaon.
3. Hiralal S/o Puna Godave,
Age : 35 years, Occu.: Business,
R/o : Neri Bk., Tq. Jamner, District Jalgaon. ... **RESPONDENTS**

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Mr. Pramod D. Patil, Advocate for Applicants.

Mr. S. B. Yawalkar, APP for Respondent Nos.1 & 2.

Mr. Rahul B. Temak, Advocate for Respondent No.3

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CORAM : **T. V. NALAWADE &
MANGESH S. PATIL, JJ.**

DATE : 25th April, 2019.

ORAL JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, the learned counsel for Applicants and the learned APP is heard. Mr.Temak, learned counsel submitted that even when contacted, Respondent No.3, Hiralal has not given any response.

2 The proceeding is filed for relief of quashing of FIR No.60 of 2018, registered with Jamner Police Station, Taluka Jamner, District Jalgaon, for the offences punishable under Sections 395 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Relief of also claimed for quashing the charge-sheet filed against the Applicants in the said case.

3 The crime is registered on the basis of report given by one Hiralal Golpe on 13th June, 2018. According to him, he had taken hand loan of Rs.20,000/- from Kundan, son of Applicant Devidas. According to him, he had returned the said amount on 9th June, 2018 alongwith its interest, which was Rs.1,000/-. He has made allegations

that on 12th June, 2018 at about 04:00 pm, Kundan called him towards spot of offence for taking tea. He went there. According to him, he noticed that near the temple of Lord Vitthal, Kundan was present with his brother Narsingh and present two Applicants and also one Akash. He has made allegations that Narsingh then asked the first informant to return the money taken from Kundan. According to him, when he said that he had already returned the amount, Narsingh and other persons in the company of Narsingh became angry, they gave abuses by taking the name of his caste, which is scheduled caste and then they started assaulting him by fist blows and kicks. He has named five persons as assailants and he has contended that there were other four to five persons of Kumawat community and they had also assaulted him and they had also given abuses by taking the name of his caste. He has made allegations that during the incident, Narsingh took cash amount of Rs.50,000/-, which was in the pocket of his pant and then they went away. He was taken to hospital on the same day where he was medially examined. In respect of that incident, report was given on the next date and crime came to be registered for the aforesaid offence.

4 This Court has seen the police papers, which include statement of one Ravindra. This person had remained with the first informant when he was reach to the hospital. He has only taken the names of Applicants. Others like Sandip has contended that some persons of Kumawat community had assaulted the first informant and they had seen somebody had taken cash amount from the pocket of the pant of first informant.

5 The record of investigation shows that the allegations made as against the present Applicants are very vague in nature. Applicant No.2 is said to be brother-in-law of Applicant No.1. If loan was given by Kundan, son of Applicant No.1, there was apparently no reason for the Applicants to get involved in the dispute. The contention that the assailants were asking him to return the money needs to be kept in mind. Though injury certificate shows that some injuries caused by hard and blunt object were found on the person of first informant (five injuries), due to these circumstances inference is not possible and the crime cannot be proved as against the present Applicants. Allegation are very vague in nature. There is clear possibility of false implication of all the relatives of Kundan due to

aforesaid motive. Four to five other persons, whose names were not mentioned, but they were of Kumawat community were mentioned in the FIR to have scope of implicating other persons of Kumawat community. Instances of misusing the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are increasing. The circumstance that loan was given to first informant by son of Devidas is itself sufficient to infer that there could not have been intention as mentioned in the FIR much of Applicant Nos.1 and 2. This Court holds that to avoid misuse of process of law, relief needs to be granted in favour of Applicants. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clauses (B) and (B-1).
- III. Rule is made absolute in those terms.

[MANGESH S. PATIL, J.]

[T. V. NALAWADE, J.]