

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3223 OF 2018

Vishal Gulab Tanpure,
Age 32 years, Occu. Service,
R/o. Permanent r/o. : Balaji Nagar,
Karande Wasti, Satkar Sthal,
Rajguru Nagar, Khed,
District Pune.

....Petitioner.

Versus

1. The State of Maharashtra
2. Ravindra Ranjit Walvi,
Age 44 years, Occu. Service,
R/o. Plot No. 61, Shankar Hari Nagar,
Dudhale Shivar, Nandurbar,
Taluka Nandurbar, District Nandurbar

....Respondents.

Mr. A.S. Savale, Advocate for petitioner.

Mr. M.M. Nerlikar, APP for respondent No. 1/State.

Mr. N.B. Narwade, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.K. SONAWANE, JJ.**

DATED : 03/07/2019.

JUDGMENT : [PER T.V. NALAWADE, J.]

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The proceeding is filed for relief of quashing of F.I.R. No. 19/2016 registered with Dhadgaon Police Station, District Nandurbar

for the offences punishable under sections 3(1)(r) and 3 (1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also for the offences punishable under sections 504 and 506 of Indian Penal Code. Relief is also claimed to quash and set aside the proceeding of Special Criminal Case No. 18/2018 which is filed in the Court of learned Special Judge appointed to decide the cases filed under the aforesaid Special Enactment.

3) The F.I.R. was given by respondent Ravindra Walvi. He was honorary Chairman of Maharashtra Rajya Gramsevak Sanghatana, the association of Gramsevak. It appears that he belongs to scheduled tribe. One Smt. Sheetal Tadvi, Gramsevika was suspended and Smt. Tadvi formed opinion that the present applicant had suspended her intentionally and by making false allegations of misconduct against her. That lady had approached the association of informant Ravindra and she had requested to see that the action taken against her is revoked.

4) It is the contention of the first informant that on phone, he requested the present applicant to give him time to have discussion on the matter. According to him, he was asked to come to the office on 20.10.2016 during office time. According to him, he went to the office of the applicant on 20.10.2016 at 3.30 p.m. At the

relevant time, he was attached to Kothali Khurd Gram Panchayat, but he went to Dhadgaon Panchayat Samiti Office. He had taken with him his Secretary and aforesaid Smt. Tadvi.

5) It is the contention of the informant that when they entered the chamber of the applicant, the applicant asked as to why they had come there. According to first informant, he said that the applicant had already given him time to have discussion over the matter of suspension of Smt. Tadvi. According to him, the applicant did not discuss the matter, but he started giving abuses by taking the name of tribe and he said that only out of the hatred against the tribe, he had suspended Tadvi. According to informant, he had given threat that he would make a proposal to the Government to see that permission given to his association is also cancelled and crime is registered against the informant for the offence punishable under section 353 of IPC. He had given threat to report the incident to Superior Officer of the first informant. By mentioning the aforesaid allegations, the informant has contended that he was insulted as abuses were given to him in the name of his tribe. When alleged incident took place on 20.10.2016, he gave report to Dhadgaon police on 25.10.2016 and the crime came to be registered on 25.10.2016 for aforesaid offences. Chargesheet is filed for these offences. Copies of papers of investigation were made available.

6) Admittedly, there are many persons working in Panchayat Samiti Office where the applicant was working. This Court has gone through the record of investigation and it shows that nobody from the office of applicant came forward to say that such abuses were given. There are few statements of the persons like Gautam Walvi, who is agriculturist and who knows the first informant. Dashrath Gavit who is also agriculturist and his statement shows that he was taken with him by the first informant to the office of the applicant. There is statement of one social worker Dinesh Patil, who is the friend of first informant.

7) On the other hand, there are statements of the staff of Panchayat Samiti Office showing that the first informant was quarreling with the present applicant and statement of Ravindra Kulkarni shows that he was called by the applicant inside of the chamber and he was requested by applicant to see that the informant and others were taken out of the chamber by convincing them. He had heard the conversation and according to him, the applicant had only said that if there was grievance about suspension, then it was open to them to file appeal against his order. The statements of employees show that some incident did take place, but the statements of the employees do not show that applicant had

given abuses by taking the name of tribe or he had given threats.

8) There is statement of one Keshav Kharde, Gramvikas Adhikari of Dhadgaon and it shows that informant had requested him to give him company and so, he had gone to the office of applicant. He was present there and according to him, in his presence, no abuses were given and there was some quarrel due to suspension of Smt. Tadvī.

9) In the F.I.R. itself, no explanation is given about the delay caused in giving of the F.I.R. Most of the witnesses mentioned and whose statements are available are not resident of Dhadgaon and they had no reason for going to that office at the relevant time.

10) Ordinarily the association is not expected to take issue of suspension of one employee when employee is suspended due to misconduct. The circumstance that the informant took the Secretary and the said lady and went to the office of the applicant to question the suspension itself shows that it was nothing but pressure tactics. There is no record whatsoever with the first informant to show that he was invited to have discussion over such matter. In ordinary course also, Superior Officer at whose instance suspension order is issued, would not allowed the Chairman of such association to have

discussion or to have negotiations over such matter.

11) In the F.I.R. itself, the first informant has mentioned that it was necessary to register crime under the Atrocities Act and if anybody was pressurizing then the Act needs to be used against him also. He has contended that he is a patient of blood pressure and brain hemorrhage. The contentions made in the F.I.R. show that the informant wants to pressurize everybody. It is clear that the applicant did not succumb to the pressure and due to that, the report of aforesaid nature is given. This Court expresses that in such cases, it is always desirable for public servant like applicant to give report under section 353 of IPC and call police when such incident is going on. Misuse of the Special Enactment is increasing and it is the clear case of misuse of the provisions. If such misuse is allowed to continue, the superior officers will not dare to take action against erring employees and that will spread indiscipline. This Court holds that it is a fit case where power needs to be used and relief needs to be granted. In the result, the application is allowed. Relief is granted in terms of prayer clause 'B'. Rule is made absolute in those terms.

[K.K. SONAWANE, J.]

[T.V. NALAWADE, J.]

ssc/