

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

CRIMINAL APPLICATION NO. 1244 OF 2016

Rajesh Parshuram Jadhav

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr. M. A. Ingole for the Applicant.

Mr. Ajay Patil, APP for the Respondent-State.

CORAM : SMT. BHARATI DANGRE, J.

DATE : 25th SEPTEMBER, 2019.

P. C. :

1. Being aggrieved by an order dated 28.07.2016 passed by the Additional Sessions Judge on an application preferred by the Applicant seeking his discharge, the present application is filed.

2. Perusal of the event leading to filing of the complaint disclose that the Applicant is original complainant in C. R. No. 373 of 2013 which came to be registered under Sections 325, 304 of the IPC and Section 3(1)(x) of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989. According to the said complaint, the Applicant was bashed up by one Mr. Shreekant Tawde (original accused) and a complaint came to be lodged with Mahim Police Station. Another complaint came to be registered vide C. R. No. 387 of 2013 by Complainant Shreekant

Tawade on 20.08.2013 based on which offence punishable under Sections 341, 323, 504, 506 of the IPC came to be registered as a cross-complaint. According to the Applicant's Counsel it was registered after 7th day of registration of C. R. No. 373 of 2013.

3. The charge-sheet came to be filed in the Metropolitan Magistrate Court at Bandra and the matter was committed to the Court of Sessions. Both these special cases vide Sessions Case No. 4/2014 arising out of C. R. No. 373 of 2013 and Sessions case in C. R. No. 387 of 2013 have been clubbed together.

4. It is alleged that on 13.08.2013 when the Applicant was coming out of his house, the Complainant Shreekant Tawade hit him resulting into his fracture on his nose and it is also alleged that certain derogatory remarks attributed to Atrocities Act were also uttered which attracted the relevant sections under the Atrocities Act.

5. The Applicant preferred an application under Section 227 of the Cr.P.C. seeking his discharge. The Sessions Judge referred to the pending case where the Applicant is an informant and on an application being preferred, the proceedings are committed to the same Court. The learned trial Court proceeds on a footing that both the two cases arise out of the same incident and do not find substance with the contention

that the case registered against the Applicant is an afterthought. On perusal of the statements of the witnesses and after making reference to the recitals of the FIR filed by Shreekant Tawade where it is stated that he is a police constable whereas the Applicant is a Class-IV employee of the Reserve Bank. The FIR contains a narration that the brother of the Applicant by name Manish Jadhav is also resides in Reserve Bank colony along with the Applicant and there are various crimes registered against him and therefore the Applicant had grudge against him. The Sessions Judge after making reference to the statement recorded a finding that the witnesses are proceeded to mention that an incident took place at the given time and at the given place. However, the identification is a matter of trial and therefore refuses to oblige the Applicant by discharging him.

6. The reasoning recorded by the impugned order cannot be faulted with and there being no perversity in the same, since it is not a case of the Applicant that he is not connected at all with the said incident, the present Criminal Application deserves to be rejected and is accordingly rejected.

[SMT. BHARATI DANGRE, J.]