

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.49/2019

Chotu @ Purushottam Digambar Umale and ors

..VS..

State of Mah., thr. Officer-in-charge of PS Patur, Tahsil Patur, District Akola
and ors

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

Court's or Judge's Order

.....
Shri H.R.Gadhia, Counsel for the applicants.
Shri V.P.Gangane, Addl.P.P. for the State.

CORAM : M.G.GIRATKAR, J.

DATED : MARCH 13, 2019.

1. Heard.
2. Learned counsel Shri H.R.Gadhia for the applicants submits that after recording of evidence of witnesses, the Trial Court framed additional charge under Section 3(1)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Evidence of complainant itself shows that he is not owner of the land and, therefore, framing of charge under Section 3(1)(v) of the said Act is not legal and, therefore, prayed to quash and set aside order of the Trial Court passed below Exhibit 1 on 7.2.2019.
3. Learned Additional Public Prosecutor Shri V.P.Gangane for the State supports the impugned order. As per the provisions of Section 227 of the Code of Criminal Procedure, the accused may seek discharge before framing of charge. After framing of charge, the Trial Court has to record evidence.

4. As per submission of learned counsel for the applicants, evidence of witnesses are recorded and after recording of evidence learned Judge below framed Additional charge.

5. The Trial Court can frame additional charge before delivery of judgment, if the Trial Court thinks it fit after recording of evidence.

6. In the present case, additional charge is framed after recording of evidence. Learned counsel for the applicants pointed out only evidence of the complainant. There may be other evidence on record. No prejudice is likely to cause to the applicants. The applicants are at liberty to request the Court to recall witnesses etc.. They may re-examine witnesses. They may adduce additional evidence.

7. Learned counsel for the applicants submitted that as per evidence of the complainant, he is not owner of the land.

8. Perusal of evidence of the complainant it appears that he is in possession of the land. He may not be owner but is in possession. No prejudice is likely to cause to the applicants by framing additional charge.

9. No case is made out. The criminal revision application is rejected and disposed of accordingly.

JUDGE

!! BRW !!

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