

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 319 OF 2020

Mr. Ravindra S/o Baliram Dhawale
and others

.. APPLICANTS

VERSUS

The State of Maharashtra & others

... RESPONDENTS

...
Mr. V.D. Sapkal, Senior Advocate instructed by
Mr. A.S. Sakhare, Advocate for applicants
Mr. S.J. Salgare, APP for respondents No. 1 to 3
Mr. R.V. Naikaware, Advocate for respondent No. 4
...

CRIMINAL APPLICATION NO. 325 OF 2020

Mr. Abhishek S/o Rajendra Mane

.. APPLICANT

VERSUS

The State of Maharashtra & others

... RESPONDENTS

...
Mr. V.D. Sapkal, Senior Advocate instructed by
Mr. A.S. Sakhare, Advocate for applicant
Mr. S.J. Salgare, APP for respondents No. 1 to 3
Mr. R.V. Naikaware, Advocate for respondent No. 4
...

**CORAM : T. V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATE : 1st DECEMBER, 2020

ORDER :-

1. The first proceeding is filed for relief of quashing First Information Report ("FIR") bearing Crime No.391 of 2019 registered with Tuljapur Police Station, tahsil Tuljapur, District Osmanabad. This crime is registered for the offences punishable under Sections 324 read with Section 34 of

the Indian Penal Code ("IPC") and under Sections 3(1)(r)(s) and 3(2)(wa) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Act of 1989"). The FIR was given by respondent No. 4 - Prashant Kamble, first informant, against the applicants of first proceeding.

2. In the second proceeding, a relief is claimed for quashing FIR bearing Crime No. 428 of 2019, which is registered in the same Police Station for the offence punishable under Sections 504 and 506 of the IPC and under Section 3(1)(r)(s) of the Act of 1989. This FIR was also given by Prashant Kamble, first informant of first proceeding, against the applicant - Abhishek Rajendra Mane. As informant in both the proceedings is the same and submissions made and the record show that there are two rival groups of youngsters in the area of Shukrawarpeth Tuljapur, District Osmanabad and there are clashes between the groups and both the groups have given report against each other, both the proceedings are heard together.

3. In the first proceeding in Crime No. 391 of 2019, the allegations are made in respect of the incident dated 26-10-2019. The FIR was given on 30-10-2019. It is contended that FIR was recorded in the Government Hospital, Osmanabad, where the informant was admitted for treatment. It is the contention of informant that on the date of incident, when he and his friends Sadiq Isaq Shaikh and Ganesh Shankar Kale were walking towards Ramdhara Dam for fetching the water, they were intercepted near Apsinga Road bridge by accused persons – Abhihsek Mane and Ravi Dhawale. It is contended that within short time, third accused Abhijit Ravindra Mane came there on scooty and they picked up quarrel with the

informant. It is contended that during quarrel, they asked as to where Pintya Gangane, a boy of scheduled caste was hiding. It is contended that when informant said that he had no knowledge about Pintya, then Abhishek Mane abused him by taking name of his caste and said that even when he was belonging to scheduled caste, he had become arrogant. It is contended that during quarrel Abhishek Mane gave blow of iron rod on the head of informant and caused injury to him. It is contended that Abhishek Mane gave threat of life by saying that the informant should be finished there only. It is contended that Ravi Dhawale, other accused took out knife and he attempted to give blow of knife to informant but informant avoided that blow by raising another hand, in that attempt he sustained injury to his right little finger. It is contended that Abhijit Mane then assaulted informant with fist and kick blows and at the end he pressed neck of the informant by putting his leg on the neck. It is contended that two friends of the informant, who were in his company ran away due to fear. It is contended that due to threat of life, he informed that Pintya Gangane was present at Arya Chowk. It is contended that even after supplying the information, he was assaulted and then they went in search of Pintya Gangne. The aforesaid two friends, who ran away due to fear, came back and they took the informant in the Auto-rickshaw and went to the Police Station and thereafter they first went to Government Hospital, Tuljapur and then Doctor from Government Hospital, Tuljapur referred him to Osmanabad Government Hospital. MLC dated 27-10-2020 is referred in the FIR. Thus, there are names of eye witnesses and there is medical evidence. The copy of Medico Legal Certificate is on record to show that the informant was examined in Tuljapur Rural Hospital on 26-10-2019 and three injuries like two CLWs

and one contusion were found and they were on various parts of the body, which are described in the FIR. The record shows that the informant was referred for computerized tomography (CT) scan, as there was injury to his head. He was examined in General Hospital, Osmanabad. The record shows that, there more treatment was given to him and there was proposal of discharge on 28-10-2019. The computerized tomography (CT) scan of the brain was done, but the report was normal.

4. In the second proceeding, the informant Prashant Kamble has described the incident dated 21-12-2019. It is contended that after giving the report in respect of incident dated 26-10-2019, the boys of other side had became angry and on 21-12-2019 when he had gone to Osmanabad Court for some work and in the evening he was in the company of his friend Atul Dalvi at Bomble Chowk, accused Abhishek Mane came there and picked up quarrel. It is contended that Abhishek Mane said that in the previous crime, he was kept behind bar for four days, but ultimately he was granted bail. It is contended that Abhishek Mane gave abuses by taking name of the Caste and gave threat by saying that his father is influential person and he would teach lesson to informant for giving report against him. As threat and abuses were given, the report was lodged and on the basis of report crime came to be registered for aforesaid offences.

5. Learned Senior Advocate representing the applicants from both the proceedings submitted that the dispute is going on between two groups from 2017 and first informant report was given by Ravindra Dhawale, one of the applicants of first proceeding, in respect of incident dated 14-11-2017 and a crime was registered against Prashant Kamble and

Sagar Gadhawe for the offences punishable under Sections 307, 504 and 506 read with Section 34 of the IPC. It is submitted that even charge-sheet was filed against those persons in that crime and due to that, present informant has falsely implicated Ravindra Dhawale in the first matter. He submitted that in the report, which was filed at the instance of Ravindra Dhawale, Abhishek Mane gave statement to the Police as eye witness and due to that, the allegations are made against Abhishek Mane in the first and second crimes by Mr. Prashant Kamble. Learned Senior Advocate drew attention of this Court to the FIR dated 26-10-2019, which was given in respect of incident dated 26-10-2019 by Abhishek Mane. The copy of report shows that Abhishek Mane had given report against Pintu Gangane, Suraj Sathe and four others. He submitted that name of Prashant was not given as accused by Abhishek Mane and this circumstance can be considered to ascertain as to whether on 26-10-2019 any incident had taken place against Prashant. The time given is approximately same, as given by Prashant Kamble. Said crime came to be registered for the offences punishable under Sections 143, 323, 504, 506 and 120 of the IPC and under the provisions of Bombay Police Act.

6. There is other record. The copy of charge-sheet filed in Crime No. 24 of 2020 and that charge-sheet is filed under Sections 307, 324, read with Section 34 of the IPC and also provisions of Act of 1989. It appears that said charge-sheet came to be filed on the basis of FIR given by Prashant, which is already mentioned, which is in respect of incident dated 26-10-2020.

7. Learned Senior Advocate tried to draw attention of this Court to CDR record in respect of Abhishek and submitted that tower location

given in respect of mobile number of Abhishek Mane may not support prosecution case. This contention cannot be considered at this stage in view of aforesaid record. The record discussed shows that both the sides had given reports against each other. If time of incident by the two sides is considered, it cannot be said that no incident took place on 26-10-2020 as alleged by the informant. The record shows that there is long standing dispute between two groups and many FIRs are given by them against each others. In both the matters there will be evidence of eye witnesses in support of allegations made by the informant.

8. Learned Senior Advocate has placed reliance on the observations made by the Apex Court in the Judgment of Criminal Appeal No. 707 of 2020 arising out of SLP (Criminal) No. 3585 of 2020 dated November, 5, 2020 and submitted that the Apex Court has discussed the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and has made observations on two points like "intentional insult" and "public view". He submitted that in the present matter due to rivalry between two groups, it cannot be said that only because Prashant Kamble belongs to scheduled caste, he was insulted and beating was given to him, so provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 cannot be used. This submission cannot be accepted at this stage. The reason behind the incident is given and specific words used by accused are quoted and they show that side of the applicants is not ready to accept the resistance offered by other side. It appears that there is feeling in the group of applicants that the persons of backward class are not entitled to oppose the persons of higher caste. If there is such feeling then at the time of trial and on the basis of evidence,

it is open to the Court to draw inference. This Court holds that in both the matters relief cannot be given as there was motive of the crime and there is corroboration to the version of the informant. In the result, both the proceedings stand dismissed.

Sd/-

[M.G. SEWLIKAR]
JUDGE

Sd/-

[T. V. NALAWADE]
JUDGE

MTK