

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 142 OF 2020

Ambadas s/o Pandurang Trimbake

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr. A.L. Kanade, Advocate for the petitioner.
Mr. B.V. Virdhe, APP for respondent Nos. 1 to 4.

**CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.**

DATE : 13th October, 2020.

PER COURT : (PER M. G. SEWLIKAR, J.)

1. This petition is preferred by the petitioner under Article 226 of the Constitution of India seeking direction to respondent Nos. 1 to 4 to register crime against respondent No. 5.

2. Factual matrix in brief is as under :-

Crime No. 196/2018 was registered against respondent No. 5 for offences punishable under Sections 3(1)(f)(g), 3(2)(v)(a) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities)

Act, 1989, and Section 506 read with Section 34 of the Indian Penal Code, alleging therein that respondent No. 5 provoked the villagers for making encroachment over the land gut no. 132 to the extent of 40 R situated at village Golegaon, Tq. Khultabad, Dist. Aurangabad, owned by the petitioner and, the petitioner was consequently dispossessed.

3. It is further alleged that the respondent No. 5 and other accused persons in Crime No. 196/2018 preferred Criminal Application No. 2435/2018 before this Court. This Court (T.V. Nalawade & K.K. Sonawane, JJ) quashed and set aside the First Information Report in Crime No. 196/2018. Petitioner challenged this order before the Honourable Apex Court. The Honourable Apex Court confirmed the order of this Court.

4. It is further alleged that on 17.10.2019, respondent No. 5, who is Sarpanch of village Golegaon, held press conference and also called the representatives of electronic media at Subedari Guest House, Aurangabad, and made a statement that the petitioner had lodged a false complaint against him and others. Respondent No. 5 disclosed the name of petitioner in the press conference. As a result

of this, name of petitioner was published in various daily newspapers. Respondent No. 5 made a statement through electronic media that the revenue officers took incorrect entry in the name of petitioner. He also declared that he will grow the beard and will not shave till the First Information Report is quashed.

5. It is further alleged that on 07.01.2020 respondent No. 5 arranged a programme for removal of his beard and hair cutting and hosted a meal for the villagers. There also, he had invited the press reporters and representatives of electronic media, news of which, was published in daily Divya Marathi on 10.01.2020. The petitioner has alleged that the respondent No.5 has defamed him by making statement that false First Information Report was filed by the petitioner against him and the villagers. Therefore, he had lodged report in the police station on 01.01.2020. However, no cognizance was taken by the police. Therefore, he has filed this petition before this Court.

6. Heard Shri Kanade, learned counsel for the petitioner and Shri Virdhe, learned APP for the State.

7. Learned counsel Shri Kanade argued that the respondent No. 5 has made a defamatory statement against the petitioner. He falsely made a statement in press conference that the petitioner had lodged false First Information Report. This has lowered the reputation of the petitioner in the society and in the estimation of others. He has, therefore, prayed for directions to register the offence.

8. Shri Virdhe, learned APP for the State argued that the respondent No. 5 was making celebration for quashing of the First Information Report. Statement made by respondent No. 5 in the press conference does not amount to lowering reputation of the petitioner. He, therefore, prayed for dismissal of the petition.

9. The petitioner has annexed copy of the advertisement in which respondent No. 5 is alleged to have made a statement that the petitioner had lodged false First Information Report. The alleged statement made by respondent No. 5 in the press conference has been published in Adarsh Gavkari on 18.12.2019 and in Divya Marathi on 19.12.2019. On reading both the news items, it is seen that respondent No. 5 has narrated the facts of the case. He stated

that petitioner had lodged the complaint even when he did not have any documentary evidence in that regard. This Court has observed that the petitioner could not produce any record to show his ownership and possession over the disputed property. Narrating the facts of the case and the decision of this Court in no way would amount to defamation.

10. In order to attract provisions of Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocity) Act, 1989, there has to be intentional insult or intimidation with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. Section 3(1)(u) of the Act envisages utterance of words either written or spoken or by signs or by visible representation or otherwise promoting or attempting to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes. Getting hair cut or shaving in open space cannot be said to be promoting ill-will or hatred against the members of the Scheduled Caste.

11. In this view of the matter, we do not find any substance

in the petition. Hence, the petition is dismissed.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge

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