

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

CRIMINAL APPLICATION NO. 1055 OF 2018

1. Mr. Rajesh s/o. Shrirang Kadam,
Age 50 years, Occu. Service,
R/o. Yelamb Ghat, Tal. and Dist. Beed.
2. Janabai s/o. Shivajirao Chaudhari,
Age 47 years, Occu. Service,
R/o. Jeba Pimpri, Tq. and Dist. Beed.
3. Suresh s/o. Shivajirao Chaudhari,
Age 45 years, Occu. Service,
R/o. Jeba Pimpri Tq. and Dist. Beed.**Applicants.**

Versus

1. The State of Maharashtra,
Through Police Inspector,
Pimpalner Police Station,
Pimpalner, District Beed.
2. Janabai w/o. Dharma Waghmare,
Age 30 years, Occu. Private Service,
R/o. Panchshil Nagar, Beed.**Respondents.**

Mr. R.F. Totala h/f. Mr. R.A. Karwa, Advocate for applicants.

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

Mrs. Sanghmitra Wadmare, Advocate for respondent No. 2.

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

DATED : 29/01/2020.

ORAL JUDGMENT :

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

2) Present proceeding is filed for relief of quashing of F.I.R. No. 298/2017 registered in Pimpalner Police Station, District Beed for the offences punishable under sections 506 r/w. 34 of Indian Penal Code and section 3 (1) (r) (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The crime is registered on the basis of report given by respondent No. 2 Janabai. At the relevant time, she was working in Vivekanand High School, Kalegaon Haveli, Tahsil and District Beed as Assistant Teacher. Another lady by name Smt. Jyoti Lahane was also working on the post of Assistant Teacher. In F.I.R. given on 24.11.2017 present respondent No. 2 has made contentions that she was working as Assistant Teacher for about four years in aforesaid institution. Present applicant No. 1 Rajesh was Head Master of the school and he was also Secretary of the institution. Applicant No. 2 was working as Assistant Teacher and applicant No. 3 was working as a clerk in the said school. It is alleged that they were harassing her only because she was belonging to scheduled caste. She has contended that for about 8 months her salary was not drawn and so, she had given complaint to Education Officer on 4.10.2017. It is her contention that on 7.10.2017 when she was teaching students of 10th standard, she was insulted by taking the name of her caste and she was not allowed to teach the students even when it was Student's Day. It is her contention that she was virtually driven out of the school building and she was made to sit in

open space, ground of the school. It is her contention that this incident was disclosed by her to her husband and her relatives. It is her contention that as she had made application to the Education Officer, the present applicants gave threats to remove her from service. It is her contention that they were asking her to give 20% of the salary amount for running the hostel. Thus, the report was given in respect of specific incident dated 7.10.2017. The learned APP showed the record of investigation and submitted that there are witnesses who say that when they were passing by the side of school campus, they noticed the incident of quarrel and one witness had even heard the abuse given in the name of caste. Even if the F.I.R. is considered as it is, the F.I.R. does not show that according to the informant any incident had taken place in the open space, school ground.

3) The submissions made and the record show that inquiry was made by Deputy Education Officer, Zilla Parishad, Beed (Secondary) in respect of the complaint given by the informant. He had paid visit to the school campus on 14.10.2017. He had noticed that present informant and Smt. Jyoti Lahane were not present in the school building, but they were sitting under a tree from the ground of school. He noticed that the attendance of students was also not satisfactory and regular attendance was not recorded by the teachers. He noticed that the informant had not signed on the

muster roll for few days. He made inquiry with Head Master and Head Master complained that both these lady teachers were not acting as per his instructions, there were many complaints against them of the students, but they were not improving their conduct. The Deputy Education Officer realized that present informant was behaving arrogantly with the Head Master. He made inquiry with the students and students complained against both these lady teachers that they were not properly teaching them and these lady teachers used to remain busy on their mobile hand sets. Such written complaints of the students were obtained by the Deputy Education Officer. He gave report to Zilla Parishad that there was no substance in the allegations made by the present informant on 4.10.2017.

4) In the present proceeding, copy of so called complaint made to Zilla Parishad on 4.10.2017 was not produced and so, this Court had asked the learned counsel representing the informant to produce that record. She produced photocopy of complaint addressed to Collector dated 17.11.2017. The complaint given to the Collector shows that general allegations were made against the present applicants that they were not allowing the informant to teach the students and they were giving abuses by taking the name of caste and they were asking her to give 20% of the salary amount. She had complained that after 4.10.2017 she was not allowed to teach for about 8 days and on 7.11.2017 which was Student's Day of

Dr. Babasaheb Ambedkar, which was to be observed as per the State's policy decision, she was not allowed to teach the students. Thus, in the complaint made to Collector, she did not describe the incident dated 7.10.2017. In the complaint addressed to police on 17.11.2017 also, she referred the complaint made on 4.10.2017 to Zilla Parishad. She repeated the aforesaid contentions and she contended that on 7.11.2017 she was not allowed to teach. There is one line in this complaint given to police that on 7.10.2017 at about 11.00 a.m. in the school ground, all the present applicants had given her abuses by taking the name of the caste.

5) The learned counsel for the applicants drew the attention of this Court to show cause notices which were required to be issued to both aforesaid lady teachers. They are dated 15.6.2017, 27.6.2017, 5.7.2017, 20.7.2017, 24.8.2017, 5.10.2017 and even 7.10.2017. These show cause notices show that these lady teachers were not attending the meeting of teachers; they were insulting students; they were giving beating to the students; they were not giving the notes by writing anything on the black board; they were not giving explanation in respect of show cause notices; they were not attending the functions like Yoga Day; they were not ready to give more time to the students of 10th standard when it was necessary to improve their English and they were not using the uniform of the school and due to their conduct, the students were

suffering. Some show cause notices show that on 5.10.2017 these two teachers had refused to sign to show that notices were received. In the notice dated 7.10.2017, it is mentioned that these teachers had refused to sign the show cause notices; they refused to sign the attendance register and on 6.10.2017 also Smt. Lahane had not signed on the attendance register. The Head Master had expressed that due to this conduct of the lady teachers, he was thinking to make complaint to authorities and he was thinking to take action. Most of the show cause notices bear signatures of the informant, though last few notices do not bear the signatures. Thus, the show cause notices were given to the informant as she was not properly discharging duty and she was not even signing the muster roll.

6) As there is allegation that for about eight months, salary was not paid till the date of F.I.R., the applicants have produced on record the bank statements and acquittance rolls in respect of many months like March-April 2017, November 2017, December 2017. They show that salary of all the teachers was paid simultaneously. Thus, it cannot be said that due to caste of the informant and due to any reason, there was discrimination. However, there is record that the Head Master was not submitting the pay bills to the authority in time, as per the time schedule. It can be said that if the Head Master was not submitting bills in time, it was in respect of all teachers and proper action could have been taken against him by the authority as

he was not discharging the duty of Head Master properly. From that circumstance, it cannot be said that he wanted to harass the informant. He was also not getting the salary in time due to late submission of salary bills. Copy of show cause notice dated 22.11.2017 issued by Education Officer (Secondary) is on record and due to irregularities of the school show cause notice was given to express that there was possibility of withdrawal of recognition of the school as per the Right of Children to Free and Compulsory Education Act, 2009. The record shows that as per the Treasury Office, salary bills for March 2017 to December 2017 were filed late and the salary bills of May 2017, September 2017 and October 2017 were not filed till 2.1.2018.

7) Some record is produced to show that subsequent to registration of the crime, the institution took decision to start departmental inquiry and on 1.7.2018 resolution was passed and then the informant was kept under suspension. The submissions made show that by order dated 17.11.2018 after departmental inquiry, the services of the informant were terminated.

8) From the aforesaid record, it can be said that there was some dispute between the informant and the school management, the Head Master. But, on the basis of record, it cannot be said that they harassed the informant only because she belongs to scheduled

caste. Allegations made against the applicants are vague and it can be said that due to some dispute at the place of employment, to pressurize the employer, the F.I.R. came to be given. When there was opportunity to give F.I.R. immediately, no such steps were taken. In the complaints addressed to various authorities the incident was not mentioned. The F.I.R. came to be given first time on 24.11.2017. It cannot be said that she was afraid of the management as she had shown courage to make complaint to Education Officer, Zilla Parishad on 4.10.2017 and then she had made complaint to Collector also on 7.11.2017. Due to all these circumstances, this Court holds that it will be abuse of process of law if the applicants are asked to face the trial for aforesaid offences. In the result, the application is allowed. Relief is granted in terms of prayer clause 'C'. Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

ssc/