

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

CRIMINAL APPLICATION NO. 1171 OF 2020

Angad s/o. Sitaram Gavhane **....Applicant.**

Versus

The State of Maharashtra & Anr. **....Respondents.**

Mr. R.D. Thorat, Advocate for applicant.

Mr. K.S. Patil, APP for respondent No. 1/State.

Mr. R.L. Kute, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
SHRIKANT D. KULKARNI, JJ.**

DATED : 03/11/2020.

ORDER :

1. The application is filed for relief of quashing of F.I.R. No. 125/2020 registered with Yusuf Wadgaon Police Station, Tahsil Kaij, District Beed for the offences punishable under sections 324, 323, 506 r/w. 34 of Indian Penal Code and section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Heard both the sides.

2. The crime is registered on the basis of report given by respondent No. 2 Abhijit. The report was given on 13.6.2020 in respect of incident dated 12.6.2020 and it is contended that incident took place at about 5.30 p.m. Abhijit has made allegations that at the relevant time, present applicant was riding motorcycle and he

was also on motorcycle with his cousins Rajpal and Yashpal. It is contended that the present applicant was not paying attention as he was talking on phone and due to that the motorcycle of applicant gave dash to the motorcycle of informant from backside. It is contended that the applicant fell with the motorcycle and due to that he stopped the motorcycle. It is contended that he went ahead to see as to whether applicant had sustained injuries and after that applicant contacted somebody on phone and called them there. It is contended that the applicant then made inquiry with him about his parents and when he gave the name, the applicant asked him to stay there. It is contended that after some time in four wheeler persons like Ramdas Gavhane and Govind Gore came there and then he was assaulted by Ramdas Gavhane by using iron rod and Gore assaulted him with fist blows and kicks. It is contended that he was then forcibly taken away from the spot on the motorcycle by Angad, applicant to Malegaon Chowk and there he was assaulted by all of them. It is contended that applicant then gave threat that he will be hanged by using rope. It is contended that he became unconscious and somebody shifted him to Ambajogai Government Hospital. The report came to be given on the next day. The police papers show that the informant was admitted in Government Hospital on 12.6.2020 and he had injuries like blunt trauma to head and abrasion over chest. History of physical assault was given and time of incident was mentioned as 5.15 p.m. of 12.6.2020. He was shown indoor

patient in the hospital and treatment was given to him.

3. The learned APP produced on record the papers of investigation of C.R. No. 126/20 also. These papers show that present applicant gave report against present respondent No. 2 and other persons. The date and time of the incident is the same. He has contended that about 15 days prior to the date of incident Balu Bachute had requested him for lift on his motorcycle, but he had refused to give lift as it was not advisable due to pandemic situation created by Covid-19 virus. It is contended that on the day of incident when he was present on his motorcycle Balu Bachute, Pandurang Bachute came on their motorcycle and they gave dash of their motorcycle to him. It is contended that when he fell he was assaulted by fist blows and kicks and then on second motorcycle Abhijit son of Balu Bachute came there and he also assaulted by using iron bar. On the basis of his report given on 15.6.2020 the crime came to be registered for offences punishable under sections 307, 323, 34 etc. of I.P.C.

4. The aforesaid record of the two counter F.I.Rs. is considered. It can be said that the applicant is not disputing that some incident did take place on the aforesaid date and at the place mentioned by both the sides. Both the informants had sustained injuries in the incident. The provision of section 3 (2) (va) of

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 shows that when scheduled offence like offence punishable under section 324 of I.P.C. is committed, crime can be registered under this provision of Special Act also. Further, the contentions show that it was known to the applicant that informant belongs to scheduled caste. Specific allegations are made that the informant was virtually humiliated by taking him to thickly populated place and giving beating to him at that place. Due to all these circumstances and the record available, it cannot be said that there is no material to make out prima facie case for aforesaid offences. This Court holds that the reliefs claimed cannot be given. In the result, the application stands dismissed.

[SHRIKANT D. KULKARNI, J.]

[T.V. NALAWADE, J.]

ssc/