

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.736 OF 2020

Prakash S/o Venkat Kale and Others ..Petitioners

Versus

The State of Maharashtra and Another ..Respondents

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Mr. Nitin S. Choudhary, Advocate for Petitioners.

Mr. A.V. Deshmukh, APP for the Respondent-State.

Mr. P.B. Rakhunde, Advocate for Respondent No.2.

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

DATED : 02nd DECEMBER, 2020.

ORDER :-

. Present proceeding is filed for relief of quashing of F.I.R. No.119 of 2020 registered with Police Station Markhel, Taluka Degloor, District Nanded for the offences punishable under Section 324, 323, 341, 504, 506 r/w 34 of I.P.C and under Sections 3(1)(r)(s), 5(a) and 3(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. As during trial charge sheet was filed in this matter, relief is claimed for quashing of the case itself. Both the sides are heard.

3. The crime is registered on the basis of the report given by respondent no.2. In the report, he has described

one incident dated 25.06.2020. It is contended that on that day, when he was proceeding to dispensary with his wife as his wife was suffering from fever, at about 01.00 pm his motorcycle was intercepted by the present petitioners. It is contended that after stopping of the motorcycle, the petitioners picked up quarrel by saying that he was not giving proper ration to the card holders. It is contended that the petitioners then gave abuses by taking name of the caste of the informant which is a scheduled caste. It is contended that when he denied that he was not giving proper ration to the card holders, threat of life was given to him and then he was pushed. It is contended that the petitioner Prakash Kale then hit a stone on the right side of his head and others assaulted him with fist blows and kicks. It is contended that his wife intervened in the incident to save him and she called her brother. It is contended that he was taken to Markhel Police Station where he narrated the incident and the said police referred him to the government hospital. After taking treatment in the government hospital, he had come to police station to give report.

4. In support of the aforesaid contentions, there is a statement of his wife, the spot panchnama and there is medical record showing that the informant was examined in government hospital in Primary Health Center Markhel on

25.06.2020 at about 15.40 hrs. He had one contusion over right side of the forehead having size 5cm x 3cm and the age of the injury was within 24 hours. Thus, there is circumstantial check to the allegations made by the informant against the petitioners.

5. The learned counsel for the petitioners submitted that the petitioners had given complaint and representations against the informant that he was not distributing proper ration to the card holders and there were irregularities in his shop. It was submitted that the allegations were made against the informant that he was giving 1kg of food grains less to every card holders and he was not behaving properly with the card holders. Copy of the said complaint given to Tahsildar dated 18.02.2020 is produced on record and it shows that Prakash Kale had obtained signatures of villagers and the complaint was sent. There is one more copy of complaint dated 11.03.2020 given to the District Supply Officer against the informant and in that matter also Prakash Kale had taken the lead. It appears that complaints were made to the Government and ministers of the concerned department. It appears that in the past, some mediators had settled the dispute and due to that previous complaint was withdrawn by those villagers. It was submitted that due to such complaint and representations, the petitioners are

falsely implicated in the incident.

6. The learned counsel for the petitioners drew the attention of this court to one more complaint given to police by Prakash Kale on 26.06.2020. In this complaint, he had expressed apprehension that the present informant may cause injury to himself and may give false report against Prakash Kale. The endorsement appearing on this complaint shows that it is dated 26.06.2020. This submission and the record cannot be used at this stage. The incident took place on 25.06.2020 and the complaint made to the police by Prakash Kale on 26.06.2020 shows that he had some clue that some incident had taken place. He had mentioned that the informant may dash his head against something and cause injury to his head. As per the record, the informant had sustained injury to his head and so this complaint dated 26.06.2020 given to police by Kale cannot help Kale and other petitioners in any way.

7. It is possible that there was some dispute between the informant, who is a shop keeper of fair price shop and some villagers. That circumstance can be used as motive. There was grievance against the shop keeper but the complaints were withdrawn and the matter was settled and after that the incident in question took place. If there

was settlement of the dispute, then there was no reason for the informant to falsely implicate the present petitioners. The possibility that the present petitioners were angry with the informant and due to that the incident took place cannot be ruled out. As there is M.L.C. in support of the contentions of the informant, this court holds that no relief can be granted to the petitioners. In the result, the petition stands dismissed.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)