

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

CRIMINAL APPLICATION NO. 1464 OF 2019

1. Suryakant s/o. Vitthalrao Shelke
Age 70 years, Occu. Agri. & Social Worker,
 2. Pradip s/o. Ramrao Surwase
Age 45 years, Occu. Pvt. Service,
- Both R/o. Mahmadapur, Tq. &
Dist. Latur.

....Applicants.

Versus

1. The State of Maharashtra
Through Latur (Rural) Police Station,
Dist. Latur in Crime No. 020/2019
2. Muktabai w/o. Pundlik Bansode
Age 38 years, Occu. Labour,
R/o. Opp. Water Tank, Prakash Nagar,
Latur.

....Respondents.

Mr. S.S. Panale, Advocate for applicants.

Mr. A.V. Deshmukh, APP for respondent No. 1/State.

Mr. R.A. Tambe, Advocate for respondent No. 2.

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

DATED : 15/10/2020.

JUDGMENT : [PER T.V. NALAWADE, J.]

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. in C.R. No. 20/2019 registered with Latur Rural Police Station for the

offences punishable under sections 3(1)(14) and 3(1)(15) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 354, 294 r/w. 34 of Indian Penal Code. Relief is claimed of quashing of Special Case (Atrocity) No. 17/2019 filed in aforesaid crime and which is pending before the learned Additional Sessions Judge, Latur.

3) The crime was registered on the basis of report given by present respondent No. 2 Smt. Muktabai. At the relevant time, she was living at Prakash Nagar, Latur. The native place of her husband is Mamdapur, Tahsil and District Latur. She was living separate from her husband from about 10 years prior to the date of incident. She has one son by name Pravin aged about 23 years, one daughter Mohini aged about 21 years and other son Pramod aged about 19 years. Mohini and Pramod are living with this lady, but Pravin, the eldest issue is not living with her.

4) When informant was cohabiting with husband, a ration card was obtained for his family and on this ration card not only the name of this couple and issues are there, but the names of parents of the husband were also there. Father in law of the informant is dead, but ration card was kept with her by the informant. It is her contention that about one year she used to visit village Mamdapur for collecting ration which is available on ration card. It is the

contention of the informant that on 30.1.2019 at about 11.00 a.m. she went to Mamdapur for collecting ration with her son Pramod. It is her contention that when she was present at the ration shop, eldest issue Pravin came there and said to the shop keeper that ration should not be given to her. It is her contention that Pravin is mentally disturbed person and so, she requested shop keeper Shelke to give ration as per the units of every person named in the ration card. It is her contention that the shop keeper Shelke, present applicant No. 1 refused to give ration. It is her contention that she said that she would approach Tahsildar, but Shelke did not give ration and gave abuses to her by taking the name of her caste. It is her contention that abuses in filthy language were also given and then she was pushed outside of the shop by holding her hand. It is her contention that at the relevant time Pradip Surwase who was present in the shop to help Shelke, had helped Shelke in pushing the informant outside of the shop and he had helped Shelke. It is her contention that Shelke said that she should get her name separated from the ration card or she should bring her husband and only after that the ration will be distributed. The report in respect of incident dated 30.1.2019 was given on the same day and the crime came to be registered for the aforesaid offences.

5) This Court has carefully gone through the statements recorded by police during investigation. They include the statement

of informant and her son Pravin. There are statements of other persons who had gathered there including the villagers and they show that there was dispute between Pravin and the informant and not between the shop keeper and the informant. The statements show that the shop keeper only advised informant to get settle the dispute and then come for taking ration. The statements show that the informant had kept the ration card on the table of the shop and from there, Pravin had picked up the ration card and he ran away with the ration card and thus, the ration card was not available for giving ration. The Statement of Pravin, the said eldest son of the informant is recorded and this statement shows that the informant, mother was not ready to give ration of his share to him and as he wanted the ration card for using it for educational purpose, he ran away with the ration card. His statement shows that Shelke had not misbehaved with his mother and he had only advised to see that the ration is given to the persons of the ration card who were living in that village also. During submissions it was admitted that the ration card is not with the informant at present.

6) The entire record shows that there was dispute between Pravin and the informant. Due to that dispute and as the ration card was taken by Pravin and he ran away, the ration could not be given to the informant. It appears that as ration was not given to her she became angry and she gave the report of aforesaid nature. Due to all

these circumstances and as almost all the statements are against the informant and they are to the aforesaid effect, this Court holds that it will be misuse of process of law if the shop owner and his employee are asked to face the trial for aforesaid offences. In the result, the application is allowed. Relief is granted in terms of prayer clause 'B-1'. Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

ssc/