

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

CRIMINAL WRIT PETITION NO.1023 OF 2019

1. Jaykrushna Digambar Ramdasi
Age 63 years, Occu: Retd. Govt. Servant
2. Narendra Jaykrushna Ramdasi
Age 28 years, Occu. Education.
3. Ms. Kalpana Jaykrushna Ramdasi,
Age 55 years, Occu: Household.
4. Amruta @ Minal Jaykrushna Ramdasi,
Age 30 years, Occu: Household,
All r/o Shani Mandir Galli, Amalner,
Tq. Amalner, Dist. Jalgaon ..Petitioners

Versus

1. The State of Maharashtra,
Through P.I. Amalner Police
Station, Amalner, Tq. Amalner,
District Jalgaon.
2. Rajusing Babusing Pardeshi,
Age 52 years, Occu: Service,
R/o Mangala Devi Chowk,
Amalner, Tq. Amalner,
District Jalgaon. ..Respondents

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Mr. Kishor C. Sant, Advocate for Petitioners.
Mr. R.B. Bagul, APP for the Respondent-State.
Mr. A.S. Jadhav h/f Mr. P.R. Katneshwarkar, Advocate for
Respondent No.2.

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

DATED : 07TH SEPTEMBER, 2020.

JUDGMENT (PER T.V. NALAWADE, J):-

. Rule. Rule Made returnable forthwith.

2. Heard by consent of both the sides for final disposal.

3. Present proceeding is filed for relief of quashing of F.I.R No.139 of 2019 dated 07.04.2019 registered with Amalner Police Station, Taluka Amalner, District Jalgaon for the offences punishable under Section 504 and 506 of I.P.C and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989. During pendency of the present proceeding charge sheet came to be filed and relief of quashing of the case is also claimed.

4. Crime was registered on the basis of the report given by respondent no.2 Rajusing Babusing Pardeshi. According to him, he belongs to Hindu Khangar community which is a scheduled caste and the present petitioners belong to Brahmin community. It is contended that in the year 2014, he purchased a portion of house from Gopal Digambar Ramdasi and Shakuntala Digambar Ramdasi, brother and sister of the petitioner Jaykrushna Digambar Ramdasi and since then he is in possession of that house. It is the contention that as petitioner no.1 created dispute due to the sale deed, he approached the police and on the basis of report given by him on 22.02.2019, crime was registered

against petitioner no.1.

5. It is the contention of the informant that one incident had taken place on 23.11.2018 at about 05.30 pm near Shani Temple of Amalner. It is contended that at the place of the incident, there is house of petitioner no.1 Jaykrushna Ramdasi and he was present there. It is contended that all the petitioners came there and they said that he was from lower caste and as per his status, he should not stand at the place where the petitioners were present. He has contended that the petitioners gave abuses by taking the name of his caste and they also gave threat of life. It is contended that some persons like Bhaiyya Chaudhari and Harshal Ramdasi intervened and he was rescued. In respect of the incident dated 23.11.2018, he gave F.I.R on 07.04.2019.

6. The contents of the aforesaid F.I.R shows that he had given first F.I.R on 22.02.2019 but in that F.I.R different incident was mentioned and he did not mention the incident dated 23.11.2018. The submissions made and the record produced shows that petitioner no.1 Jaykrushna Ramdasi filed suit for partition, injunction and declaration on 18.06.2018. In the suit, petitioner no.1 has challenged the sale deed which was made in favour of informant Rajusing

Pardeshi. In the said suit, an application for relief of temporary injunction was filed against him and by order dated 16.10.2018, the Trial Court granted relief of temporary injunction in favour of petitioner no.1. By this order, informant is restrained from disturbing the peaceful possession of plaintiff, petitioner no.1 over suit property bearing T.P. No.40/1 admeasuring 373.4 square meter situated at Amalner. Thus, the relief of temporary injunction was granted in favour of the petitioners before 07.04.2019.

7. This Court has gone through the statements of witnesses who include the nephew of petitioner no.1. The nephew has contended that he had no knowledge about such incident. The name of Harshal Ramdasi, the said relative is mentioned in the F.I.R but Harshal Ramdasi says that he has no knowledge of such incident. There are some statements supporting the version of the informant like statements of Balkrushna Mahajan, who says that incident took place on 27.11.2018 at about 12.30 pm and the statement of Dhanraj Choudhari, who says that the incident took place at 23.11.2018 at about 05.30 pm. F.I.R was given very late and there are aforesaid circumstances. It is clear that to pressurize the petitioners as they have filed the suit and they have got relief of injunction against the informant, the report is given and the informant is trying to misuse the

circumstances that he belongs to scheduled caste. It will be abuse of process of law if the petitioners are directed to face the trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The petition is allowed.
- II. Relief of quashing of the case filed in Crime No.139 of 2019 registered with Amalner Police Station for the offences punishable under Section 504 and 506 of I.P.C and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, is hereby granted.
- III. Rule is made absolute in those terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)