

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 687 OF 2011

Pradeep s/o Vithal Patil,
Age: 38 Years, Occ: Agriculture,
R/o. Mauje Hingona, Taluka Chopda,
District Jalgaon.

... PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai-400 032.
- 2] The Divisional Caste Certificate
Scrutiny Committee, Dhule.
Through its Members.
- 3] Smt. Aruna w/o Ashok Hiwaraye,
Age: 36 Years, Occ: Agriculture,
R/o. Mauje Hingona, Taluka Chopda,
District Jalgaon.
- 4] The Sub-Divisional Officer,
Amalner, Taluka Amalner,
District Jalgaon.
- 5] The Superintendent of Police,
Jalgaon.

... RESPONDENTS

...
Mr. A. S. Kale, i/b Mr. S. B. Talekar, & Mr. A. T. Kanawade, Advocate for
Petitioner.

Mr. Y. G. Gujarathi, APP for Respondent Nos.1, 2, 4 & 5.

Mr. A. S. Bayas, Advocate for Respondent No.3.

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AND

CRIMINAL WRIT PETITION NO. 688 OF 2011

Vithal s/o Bhika Patil,
Age: 61 Years, Occ: Agriculture,
R/o. Mauje Hingona, Taluka Chopda,
District Jalgaon.

... PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai-400 032.
- 2] The Divisional Caste Certificate
Scrutiny Committee, Dhule.
Through its Members.
- 3] Smt. Aruna w/o Ashok Hiwaraye,
Age: 36 Years, Occ: Agriculture,
R/o. Mauje Hingona, Taluka Chopda,
District Jalgaon.
- 4] The Sub-Divisional Officer,
Amalner, Taluka Amalner,
District Jalgaon.
- 5] The Superintendent of Police,
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Petitioner.

Mr. Y. G. Gujarathi, APP for Respondent Nos.1, 2, 4 & 5.

Mr. A. S. Bayas, Advocate for Respondent No.3.

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

DATE : 15th December, 2020.

JUDGMENT: (Per T. V. Nalawade, J.)

. Both the proceedings are filed for relief of quashing the direction given by the Caste Scrutiny Committee, Respondent No.2 in order dated 14th/15th June, 2011 to register crime against the Petitioners for the offences punishable under Sections 199, 200 and 193(2) of the Indian Penal Code.

2 Both the sides are heard.

3 The Petitioner from Criminal Writ Petition No.687 of 2011 had applied to the Caste Scrutiny Committee for verification of his claim that he belongs to "Kunbi", other backward class. The Petitioner from Criminal Writ Petition No.688 of 2011 is the father of Petitioner from Criminal Writ Petition No.687 of 2011. In proceeding No.3237 of 2010, objection was taken by one Smt. Aruna Hiwaraye that Pradeep does not belong to "Kunbi" caste.

4 The Caste Scrutiny Committee considered the genealogy

given by Pradeep and affidavits filed in support of genealogy. The Vigilance Cell report was also considered. It appears that there was some discrepancy in the initial genealogy submitted before the Caste Scrutiny Committee on 27th April, 2010 and the subsequent information supplied on 18th February, 2011. This inconsistency was considered by the Vigilance Cell also. The Vigilance Cell gave report that Pradeep was of "Kunbi" community and that was ascertained on the basis of relevant factors including the local inquiry. As there was some discrepancy in the two affidavits in respect of genealogy, out of those one was filed by the father of Pradeep, the aforesaid direction is given by the Caste Scrutiny Committee.

5 This Court has carefully gone through the affidavit filed by Pradeep and dated 16th April, 2010. In the affidavit he had mentioned that one Ragho was his ancestor and Ragho had three issues like Pandit, Manjuri and Bhika @ Babu. He had contended that Bhika has one son by name Vithal and Pradeep is a son of Vithal. It appears that, subsequently on 18th February, 2011, Pradeep had filed another affidavit and mentioned that Ragho had left behind five issues like Bhoju, Khandu, Manjuri, Babu and Bhika. Thus, it was informed that Babu was issue of Ragho and Bhika was not called as Babu. This is the discrepancy in the two affidavits. Though, such discrepancy is

there, the Caste Scrutiny Committee accepted the contention that Pradeep is a successor of Ragho through Vithal and so he is from that tree of ancestors. Thus, there was no false affidavit as such.

6 The provision of Section 199 of the Indian Penal Code shows that when any false declaration is made in any Court or before the public servant where the declaration can be received as evidence then action can be taken for giving false evidence. However, there is condition that the declarant must have knowingly made the false declaration or he must have believed that the declaration, which he was making was not true. Section 200 of the Indian Penal Code shows that using as true a false declaration knowingly it to be false is also an offence. Section 193 of the Indian Penal Code provides for punishment when there is false evidence given.

7 The aforesaid provisions show that though it is not mentioned in these Sections that it was intentionally made to make some wrongful gain, we need to keep in mind that there are various kinds of *mens rea* and the knowledge is also a kind of *mens rea*. Further, the term like “believing to be false” also involves the knowledge. When there is some act due to which some gain can be made and which is prohibited by law, then cognizance of such offence

can be taken. In the present matter, the aforesaid genealogy shows that by not mentioning other successor of original ancestor nothing could have been achieved by Pradeep. When admittedly he is a successor of original ancestor Ragho through Vithal and Bhika, it does not matter that one Babu was also successor of Ragho. Due to these circumstances, this Court holds that apparently no offence punishable under the aforesaid Sections is made out. This Court holds that the relief claimed needs to be given. In the result, the following order is passed:

ORDER

- I. Both the petitions are allowed.
- II. Relief is granted in terms of prayer clause (A) in both the petitions.
- III. Rule is made absolute in those terms.

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE, J.]

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