

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

**CRIMINAL APPLICATION NO. 3842 OF 2017**

Santosh S/o. Ashruba Thaware,  
 Age : 36 years, Occu. Service,  
 R/o. : B-8, M.I.D.C., Waluj,  
 Tal. Gangapur, Dist. Aurangabad.

... **APPLICANT**

**V E R S U S.**

1. The State of Maharashtra
2. Sanjay S/o. Shripat Bhingare,  
 Age : 47 years, Occu.: Service,  
 R/o. : Boudha Nagar, Jawahar Colony,  
 Aurangabad.

... **RESPONDENTS**

...  
 Mr. Ravindra S. Shinde, Advocate for applicant  
 Mr. S. D. Ghayal, APP for Respondent No. 1 – State  
 Mr. R. G. Shirsath, Advocate for Respondent No. 2

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

**DATE : 3<sup>rd</sup> DECEMBER, 2020**

**ORAL JUDGMENT :** ( PER : T.V. NALAWADE, J.)

Rule. Rule made returnable forthwith. By consent heard learned counsel for both the sides for final disposal.

2. Present application is filed for relief of quashing First Information Report (FIR) bearing Crime No. 3034 of 2015 registered with M.I.D.C. Police Station, Waluj, Aurangabad, for the offence punishable under Sections 3(i)(x) of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1985 and also Sessions Case No. 141 of 2017 which is

filed in this crime and pending in Sessions Court, Aurangabad. The crime was registered on the basis of report given by respondent No.2 - Sanjay S/o. Shripat Bhingare on 01-04-2015. In the FIR, he has described the incident dated 12-03-2015. The informant was working in FDCLB-2, MIDC Waluj, as worker at relevant time and present applicant was working as Senior HR Manager. It is contended that on 12-03-2015, informant had entered the cabin of the applicant with his two colleagues like Shivnath Ingale and Sanjay Bhole for giving one representation. It is the contention that they wanted to help the family of deceased employee- Mr. Barwal by deducting some portion of salary of the employees and giving that portion to family of deceased Barwal. It is contended that present applicant refused to accept the representation even after reading it and he asked them to go to other Officer by name Mr. Tongale. It is contended that they went to Mr. Tongale and handed over representation to him.

3. It is the contention of informant that from the cabin of Mr. Tongale, when they were returning and when they were passing by the side of cabin of present applicant, applicant gave them call, so they stopped there. It is contended that applicant arrogantly said to the informant that informant ought to have resigned from the Office bearer post of his Union. It is contended that when the informant said that he will not give such resignation, applicant gave abuses to him by taking name of his caste and also gave threats. It is contended that applicant then said to Mr. Sanjay Bhole and Mr. Shivnath Ingale they should not remain in the company of respondent-informant, otherwise, they would lose their job.

4. Charge-sheet is filed in the present crime. The papers of investigation were made available. The aforesaid two witnesses like Mr. Sanjay Bhole and Mr. Shivnath Ingale have given similar statements to the Police. However, there are statements of other employees and they said that at the relevant time they were present in the cabin of applicant and no such incident took place. There is statement of Officer Mr. Tongale, which shows that he had accepted representation and then he had gone to the cabin of present applicant and had handed over the same to him.

5. The submissions made and record show that there are two Unions in that establishment. The informant is Office bearer of one Union. Against informant the employer had started departmental inquiry due to his misconduct. There was charge of willful insubordination, commission of many acts subversive of discipline in the premises of the establishment, causing willful damage to the work in process, to property of the establishment and also refusal to accept charge-sheet, order or other communication served in accordance with the Standing Orders. The record shows that the present applicant was appointed as Representative of the employer for conducting the inquiry before Inquiry Officer. This appointment was made on 07-01-2015. Some record of inquiry is also produced.

6. It was submitted on behalf of the applicant that informant is in habit of giving such complaints against Superior Officers. Some record is produced. It appears that the informant has some dispute with Management. The record shows that there is possibility that the informant has feeling that the Management is taking side of other Union.

7. The aforesaid circumstances show that there was no reason for the applicant to give such abuses and that too intentionally to the informant. As he was appointed as representative of the employer for producing material before the Inquiry Officer, there is possibility that such allegations are made against him. It is unfortunate but it is fact that in these days some persons misuse the circumstances that they belong to backward class and they try to pressurize the Superior Officers. The statements of other employees are to that effect. As there is possibility of false implication and there is record of aforesaid nature, this Court holds that it will be abuse of process of law, if applicant is asked to face trial for aforesaid offences.

8. In recent decision, the Apex Court, in Criminal Appeal No. 707 of 2020 arising out of SLP (Criminal) No. 3585 of 2020 (*Hitesh Verma Versus The State of Uttarakhand and another*) dated November, 5, 2020, has laid down that 'insult' should be 'intentional' to make out the offence punishable under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In the present matter, there was relationship of Supervisor and worker between them and there was no question of having such intention as per the record. For this reason also, this Court holds that application needs to be allowed. In the result, criminal application is allowed. Relief is granted in terms of prayer clause 'B'. Rule is made absolute in those terms.

Sd/-  
[ M.G. SEWLIKAR ]  
JUDGE

MTK

Sd/-  
[ T. V. NALAWADE ]  
JUDGE