

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

CRIMINAL WRIT PETITION NO. 1364 OF 2017

Annasaheb Waraji Chaudhari
and Others

... **Petitioners**

Versus

The State of Maharashtra
and Another

... **Respondents**
(Res. No.2 Orig. Complainant)

...

Advocate for Petitioners : Mr. N.V. Gaware
APP for Respondent/State : Mr. M.M. Nerlikar

...

**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**
DATE : 20.10.2020

ORDER: (Per: *M.G. Sewlikar, J.*)

This is a petition under Section 226 of the Constitution of India and under Section 482 of the Cr.P.C. for quashing of the F.I.R. in Crime No. I-122/2017 dated 09.04.2017 registered with Rahuri Police Station, District Ahmednagar for the offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 323, 143, 147, 148, 149 of the I.P.C..

2. Facts leading to this petition are that on 08.04.2017 at 9.30 pm a musical concert was going in village Kukkadvede, Taluka Rahuri, District

Ahmednagar. During this programme the respondent no.2 noticed that stones were being pelted which was causing disturbance in the programme. His uncle Khandu Revji Barde went there to pacify those who were pelting stones. One Pappu Appasaheb Chaudhari caught hold of his uncle by collar. Respondent no.2 objected to it. Thereafter all the petitioners, who are 'Maratha' by caste, took him aside and assaulted him by means of sword, iron rod. In local language they abused him on caste calling him 'Bhilya' and that the informant had become insolent. Soon thereafter somebody delivered a blow of an axe on his head. His brothers Ashok Barde and Subhash Barde came to his rescue. Thereupon, Rushikesh Pansare petitioner no.6, Rahul Chaudhari petitioner no.5 and Bharat Dokare petitioner no.7 assaulted them by means of sword and iron rod. On these allegations F.I.R. was lodged on 09.04.2017 at 5.20 pm.

3. Heard Shri N.V. Gaware the learned counsel for the petitioners, Shri M.M. Nerlikar the learned APP for the State. Shri Gaware argued that petitioner no.2-Annasaheb Chaudhari is a sitting Member of Village Panchayat. The informant is the nephew of the sitting Sarpanch namely Mangal Barde. Petitioner no.2 is a Social Activist. On 15.09.2016, petitioner no.2 and other villagers had made a representation to the Collector stating therein that certain persons from 'Bhill' community had encroached upon 60 acres of

Government land and for removal of the encroachment this representation was moved at the instance of petitioner no.2 and therefore members of 'Bhill' community were agitated with petitioner no.2 and therefore this false case came to be lodged. He argued that the alleged incident had never taken place and therefore he prayed for quashing of the F.I.R.

4. Learned APP for the State Shri Nerlikar submitted that the offence is serious in nature. The petitioners assaulted respondent no.2 and others and the F.I.R. has been lodged immediately.

5. On perusal of papers annexed with the petition it is seen that F.I.R. was lodged immediately. The incident took place on 08.04.2017 and F.I.R. was lodged on 09.04.2017. F.I.R. shows that the petitioners had abused the informant on caste calling him 'Bhilya'. These abuses were hurled during the musical concert within public view. This amounts to intentionally insulting the member of the scheduled caste / scheduled tribe within public view. Therefore, cognizable offence *prima facie* appears to have been committed. The petition is devoid of any substance and hence it is dismissed.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]