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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO.466 OF 2020

Manmitsingh s/o Gurudayalsingh
Goramnagakar, aged about 18 years,
Occupation : student, r/o Padha, taluka Kelapur,
District Yavatmal, PS Pandharkawada. **Applicant.**

:: VERSUS ::

1. State of Maharashtra, through PS
Officer, Pandharkawada, taluka Kelapur,
District Yavatmal.

2. Umesh s/o Sadashiv Gedam, aged about
40 years, r/o Padha, taluka Kelapur. **Non-applicants.**

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Shri Rishabh Khemuka, Counsel for the Applicant.
Shri M.J.Khan, Additional Public Prosecutor for non-applicant
No.1/State.
Shri Firdos Mirza, Counsel for Non-applicant No.2.

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CORAM : **VM.DESHPANDE, &**
 ANIL S.KILOR, JJ.
DATE : **DECEMBER 10, 2020**

ORAL JUDGMENT (Per : Anil S.Kilor, J.)

1. By the present application, applicant/accused No.2, in
Crime No.206/2020, is praying for quashing of chargesheet along
with criminal proceedings pending before Additional Sessions

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Judge at Kelapur for offences punishable under Sections 323, 504, and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, “the SC and ST Act”).

2. It is the case of the prosecution that non-applicant No.2 who is the complainant, lodged a criminal complaint with Pandharkawada Police Station, Yavatmal alleging therein that while the complainant was sitting on a cement bench, accused No.1/Gurudayalsingh came out of his house and started abusing the complainant on his cast. Thereafter, Gurudayalsingh went in to his house and called his son who is applicant in the present matter who thereon threatened the complainant and also assaulted him. Non-applicant No.1 accordingly registered a crime against both the accused including the applicant herein.

3. Heard learned counsel Shri Rishabh Khemuka for the applicant, learned counsel Shri Firdos Mirza for non-applicant

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No.2/complainant, and learned Additional Public Prosecutor Shri M.J.Khan for the State.

4. Learned counsel Shri Rishabh Khemuka for the applicant, submits that from the statement recorded during investigation and filed along with chargesheet there is nothing incriminating against the applicant to attract any of provisions of the SC and ST Act.

5. He submits that allegations in respect of the SC and ST Act are against accused No.1/Gurudayalsingh and there is nothing against the applicant. Thus, he submits that in the preset matter since offences under Sections 3(1)(r), 3(1)(s), and 3(2)(va) of the SC and ST Act do not attract, the same may be quashed and set aside.

6. *Per contra*, learned Additional Public Prosecutor Shri M.J.Khan for the State submits that applicant/accused No.2 was present with accused No.1 and both had assaulted the complainant and threatened him. Therefore, he opposes the application and

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submitted that this Court may not exercise its jurisdiction under Section 482 of the Code of Criminal Procedure in the present matter.

7. Learned counsel Shri Firdos Mirza for non-applicant No.2/complainant, submits that since chargesheet has already been filed in the present matter, trial would be conducted jointly. He further argues that this Court may not quash the chargesheet in respect of applicant/accused No.2 in relation to offences registered against the applicant under the SC and ST Act. By arguing so, he prays for dismissal of the present application.

8. To consider the rival contentions of both parties, we have perused the chargesheet and relevant documents filed along with the chargesheet.

9. From the statement of Avinash Gedam which is available on record with chargesheet it is revealed that allegations regarding abuse on caste of the complainant, are against the accused No.1/Gurudayalsingh and there are no allegations in the

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statement or in the First Information Report that, the applicant abused the complainant on his caste.

10. The learned Additional Public Prosecutor Shri M.J.Khan for the State and the learned counsel Shri Firdos Mirza for non-applicant No.2/complainant, failed to point out any incriminating material available on record which would attract offences registered against the present applicant under the SC and ST Act.

11. The Honourable Apex Court in the case of **Hitesh Verma vs. State of Uttarakhand and another**, reported at **2020 SCC OnLine SC 907** has held thus:

“The basic ingredients of the offence under Section 3(1)(r) of the Act can be classified as “1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and 2) in any place within public view”. ”

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12. On aforesaid touchstone, we revert back to the facts of the present case. In the present case, as we have observed herein above that there is no material produced on record by the prosecution against the applicant to attract any of offence under which the crime has been registered under the provisions of the SC and ST Act. Thus, we are of the considered view that this is a fit case where this Court should exercise its inherent powers under Section 482 of the Code of Criminal Procedure to the extent of quashing of the First Information Report against applicant/accused No.2 as regards offences registered against the applicant under Sections 3(1)(r), 3(1)(s), and 3(2)(va) of the SC and ST Act.

13. In this view of the matter, we pass following order:

ORDER

- 1) The criminal application is partly allowed.
- 2) The chargesheet and the criminal case pending before learned Additional Sessions Judge at Kelapur is hereby quashed and set

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Judgment

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aside to the extent of offences registered against the present applicant under Sections 3(1)(r), 3(1)(s), and 3(2)(va) of the SC and ST Act.

3) Needless to mention that Trial as against the applicant as regards other offences would continue.

The Rule is made absolute in aforesaid terms. There shall be no order as to costs.

JUDGE

JUDGE

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