

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

CRIMINAL APPLICATION (APL) NO.449 OF 2014

Ku. Waishali d/o Pandurang Nandanwar
(Sau.Waishali w/o Rahul Saolikar)
Aged about 38 yrs.
Occu. Service, R/o Plot No.4,
Wing No.3, P.H. Nagar,
Ner Old Power House,
Chandrapur. Tah & Distt.
Chandrapur.

... APPLICANT

Versus

1. The State of Maharashtra,
through, Police Station Officer
Ramnagar, Chandrapur.
2. Jt. Commissioner,
Scheduled Tribe Certificate
Scrutiny Committee,
Gadchiroli.

. . . NON-APPLICANTS.

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Shri S.R. Narnaware, Advocate for the applicant.
Ms. Mayuri Deshmukh, Additional Public Prosecutor for the
non-applicants.

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CORAM: Z. A. HAQ AND
AMIT B. BORKAR, JJ.
DATED: 11-12.2020

ORAL JUDGMENT (PER : Z.A.HAQ, J.) :

1. Heard Shri S.R. Narnaware, learned Advocate for the applicant and Ms. Mayuri Deshmukh, learned Additional Public Prosecutor for the non-applicants.

2. By order dated 31st May, 2013, the Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli, invalidated the caste certificate of the applicant holding that the applicant failed to prove that she belongs to “Koshti” tribe. The Scrutiny Committee invalidated the caste certificate issued by the Executive Magistrate, Chandrapur on 19th October, 1992. While recording its findings, the Scrutiny Committee recorded that the applicant had obtained the caste certificate on the basis of false documents and directed the Police Inspector of the Vigilance Cell of the Scrutiny Committee to lodge complaint in the form of First Information Report with the concerned Police Station against the applicant, as per Section 11 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (hereinafter referred to as “Maharashtra Act XXIII of 2001”). The decision of the Scrutiny Committee was challenged by the applicant before this Court in Writ Petition No.3151 of 2013, which came to be disposed by the

judgment dated 19th August, 2013. While dismissing the petition, this Court observed that the concerned Officer and/or the concerned Department may prosecute the applicant, as directed by the Scrutiny Committee by the decision dated 31st May, 2013.

3. The applicant has filed this Criminal Application under Section 482 of the Code of Criminal Procedure praying that the First Information Report and the Chargesheet i.e. Final Information Report lodged against the applicant be quashed.

The contention on behalf of the applicant is that the Final Information Report lodged against the applicant is illegal and unsustainable, as the provisions of Section 11(2) of the Maharashtra Act XXIII of 2001 contemplates of filing of private complaint by the Scrutiny Committee or its authorised officer before the Court and lodging of Final Information Report before the Criminal Court is not contemplated. Another contention is that the caste certificate obtained by the applicant is dated 19th October, 1992 and the Maharashtra Act XXIII of 2001 came into force on 18th October, 2001 and, therefore, the applicant cannot be prosecuted and punished as per Sections 11 and 13 of the Maharashtra Act XXIII of 2001. To support the contention, learned Advocate for the applicant relied on the judgment given by the Division Bench of this

Court in the case of *Vilas s/o Rambhau Majrikar Vs. State of Maharashtra* reported in **2015 ALL MR (Cri) 4025**.

4. We find substance in the submissions made by learned Advocate for the applicant and the law laid down in the above referred judgment directly applies to the present case. The learned Additional Public Prosecutor has not been able to controvert the submissions made by learned Advocate for the applicant. Hence, the following order:

ORDER

Criminal Proceedings No.2352/2013 pending before the Judicial Magistrate First Class, Court No.1, Chandrapur and the Charge-sheet in the above referred criminal proceedings are quashed.

Rule is made absolute accordingly.

JUDGE

JUDGE

Ambulkar