

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

92 CRIMINAL APPLICATION NO.7118 OF 2017

GANGA S/O. TUKARAM PHULMALI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicants : Mr. H.D. Deshmukh
APP for Respondents 1 to 3 : Mr. A.V. Deshmukh
Advocate for Respondent 4 : Mr. G.D. Jain (appointed)
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**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 22/02/2021.

ORDER : [PER T.V. NALAWADE, J.]

1. The proceeding is filed for relief of quashing of C.R. No. 240/2017 registered with Ahmednagar Taluka Police Station, Ahmednagar for the offences punishable under section 3(1)(2) (3) of the Maharashtra Protection of People From Social Boycott (Prevention, Prohibition and Redressal) Act, 2016. Both the sides are heard.

2. The crime is registered on the basis of report given by respondent No. 4. In the report, he has made allegations that the present applicants passed resolution as Jat-Panchayat of his community and he was outcast. Along with him, his three brothers were also outcast. He has mentioned the specific role played by each applicant in the meeting of the community which

was held to take such decision. The decision was taken on 16.7.2017 when the informant was present in the meeting and he had tried to explain the things. According to him, on 19.7.2017 when he had gone to the house of his distant relative to attend the function, the said relative did not welcome him by putting Tila and he said that he was outcast. Thus, he faced the consequence of the decision taken by the community and that decision was continued by the community and he kept suffering due to that decision. The F.I.R. was given on 4.8.2017.

3. The learned counsel for applicants submitted that the aforesaid Special Enactment came in force on 3.7.2017 and the first alleged act which was committed by the applicants was dated 5.9.2016 and 6.9.2016. In the F.I.R. those decisions of the community are mentioned, but they were in respect of other person like Manik. There was marriage with a girl of other community and so, the decision to outcast him was taken. The said person had given F.I.R. in respect of the said decision and crime was already registered against the present applicants in respect of the said decision of the community. There are allegations that after taking decision against Manik, again meeting was called and in the meeting, direction was given to the members of the community to deposit the amount with the

committee and from them the amount like Rs.2,000/- from each house was collected and the total amount of Rs.80,000/- was collected by this committee. It is the contention of the informant that he had opposed such decision and he had requested to withdraw the decision taken against Manik. It is his contention that due to such opposition from the informant, another meeting was arranged by the applicants and then decision was taken against the informant also on 16.7.2017. Thus, the acts of the committee were different and in respect of the act against the informant present crime is registered. Section 384 of I.P.C. is also used and this Court has no hesitation to observe that such section will also be applicable in the cases like present one.

4. If the object behind the aforesaid Special Enactment is considered, it can be said that to prohibit the social boycott of the persons like informant the Act is made and the boycott is a continuous act. Thus, even if the decision to outcast a member of the community was taken prior to the date like 3.7.2017, action can be taken against such person as boycott continues and the person against whom such decision is taken continues to suffer. The decision taken against the present informant falls under the aforesaid provisions of the Special Enactment and also under section 384 of I.P.C. Such offences are cognizable and

section 19 of the Act shows that framing of charge for offences punishable under sections 383 to 389 of I.P.C. is also possible. Due to all these circumstances and as it cannot be said that there is no material at all against the applicants, this Court holds that no relief can be given to the applicants. In the result, the application stands dismissed. The fees of the appointed counsel for respondent No. 4 is quantified as Rs.4,000/- (Rupees four thousand) and it is to be paid through High Court Legal Services Authority, Sub Committee, Aurangabad.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

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