

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

CRIMINAL APPLICATION (APL) NO.94 OF 2016

1. Bandu @ Pandhari S/o. Parashram Gote,
Aged about 40 years, Occ. - Agriculturist,
2. Pravin S/o. Ramdas Gote,
Aged about 30 years, Occ. Agriculturist,
3. Vitthal S/o. Madhav Gote,
Aged about 40 years, Occ. Agriculturist,
4. Vilas S/o. Madhav Gote,
Aged about 32 years, Occ. Agriculturist,
5. Madhav S/o. Nimbaji Gote,
Aged about 60 years, Occ. Agriculturist,
6. Nivrutti S/o. Sakharam Gote,
Aged about 75 years, Occ. Agriculturist,
7. Arun S/o. Ramdas Gote,
Aged about 28 years,
8. Sau. Ratnamala W/o. Pandhari Gote,
Aged about 35 years, Occ. Agriculturist,
9. Samindrabai W/o. Parashram Gote,
Aged about 65 years, Occ. Agriculturist,
10. Smt. Nandabai Ramdas Gote,
Aged about 50 years, Occ. Agriculturist,
11. Panchafula W/o. Madhav Gote,
Aged about 55 years, Occ. Agriculturist,
12. Kastura Vitthal Gote,
Aged about 28 years, Occ. Agriculturist,
13. Varsha W/o. Vilas Gote,
Aged about 28 years, Occ. Agriculturist,

All are residents of Village Tondgaon,
Tq. and Dist. Washim.

....APPLICANTS

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Washim Gramin,
Tq. and Dist. Washim.
2. Eknath S/o. Nivrutti Dhadve,
Aged about 47 years,
R/o. At Post Tondgaon,
Tq. and Dist. Washim.

.... NON-APPLICANTS

Shri A. S. Deshpande, Advocate for the applicants.
Ms. Mayuri Deshmukh, A.P.P. for the non-applicant No.1/State.

**CORAM : Z. A. HAQ AND
AMIT B. BORKAR, JJ.**

DATE : 08.02.2021.

ORAL JUDGMENT : [PER: AMIT B. BORKAR, J.]

1. Heard Shri A. S. Deshpande, learned Advocate for the applicants and Ms. Mayuri Deshmukh, learned A.P.P. for the non-applicant No.1/State.

2. This is an application under Section 482 of the Code of Criminal Procedure challenging the First Information Report bearing No.130/2015 dated 19.09.2015 registered with the Non-applicant No.1 – Police Station for the offences punishable under Sections 3(1)(v) and 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Act of 1989”), under Sections 143, 294, 323 and 506 of the Indian Penal Code.

3. The First Information Report came to be registered against the applicants with the accusations that the accused/applicants abused the non-applicant No.2 in the name of caste and the accused/applicant No.8 assaulted the non-applicant No.2. The applicants have therefore, challenged registration of the First Information Report.

4. This Court on 10.08.2016 issued Rule and granted interim relief directing not to take coercive steps in pursuance of the First Information Report No.130/2015.

5. The non-applicant No.1 has filed reply and it is stated that there is sufficient material available with the prosecution to implicate the applicants. The Investigating Officer has recorded statement of complainant and his family members. It is stated that the applicants have assaulted and abused the non-applicant No.2 in the name of his caste.

6. The learned Advocate for the applicants invited our attention to the judgment delivered in Criminal Application No.95/2016 and submitted that there were cross-complaints between the applicants and the non-applicant No.2 on various occasions. This Court in Criminal Application No.95/2016 has

quashed the First Information Report against the applicants where the First Information Report was lodged at the instance of the non-applicant No.2 herein.

7. On overall consideration of the First Information Report and the reply filed by the non-applicant No.1, we are satisfied that insofar as the allegations in respect of commission of the offences under the Act of 1989 is concerned, the allegations in the First Information Report against the applicants are vague in nature. The non-applicant No.2 has not attributed specific role to any of the applicants. The allegations against the applicants are general in nature.

8. Insofar as other offences under the provisions of the Indian Penal Code are concerned, we find that taking into consideration the registration of cross-complaints by the non-applicant No.2 against the applicants and the applicants against the non-applicant No.2, which have already been set aside by this Court, it appears that the First Information Report against the applicants is not legitimate prosecution. We are, therefore, satisfied that this is a fit case where power under Section 482 of the Code of Criminal Procedure can be exercised.

9. Taking into consideration the allegations against the applicants in relation to the offences alleged against them under the provisions of the Indian Penal Code, the continuation of prosecution would amount to abuse of process of Court.

10. We therefore, pass the following order.

The First Information Report bearing No.130/2015 dated 19.09.2015 registered with the Non-applicant No.1 – Police Station against the applicants for the offences punishable under Sections 3(1)(v) and 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, under Sections 143, 294, 323 and 506 of the Indian Penal Code is quashed and set aside.

11. Rule is made absolute in the above terms.

JUDGE

JUDGE