

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

CRIMINAL APPLICATION (APL) NO. 219 OF 2018

Madhav Vilasappa Sangekar,
Aged about 40 years, Occupation – Service,
R/o. Sangekar Nagar, Chandur Bazar,
Tq. - Chandur Bazar, Dist. - Amravati.APPLICANT

... **VERSUS** ...

1. State of Maharashtra through P. S. O.
Police Station – Chandur Bazar,
Tq. - Chandur Bazar, Dist.- Amravati.
2. Vandana Jayantrao Chawre,
Aged about 52 years, Occupation – Service,
R/o. Sudanshu Apartment,
Bhumiputra Colony, Congress Nagar,
Frezarpura, Amravati.NON-APPLICANTS

Shri Firdos Mirza, Advocate for Applicant.
Shri T. A. Mirza, Additional Public Prosecutor for Non-applicant/State.
Ms Meena Hiwase, Advocate for Non-applicant No.2.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 03.09.2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. Heard.
2. Rule. Rule is made returnable forthwith.
3. By this application under Section 482 of the Code of Criminal Procedure, the applicant is challenging registration of the First Information Report No.344/2017 dated 19.11.2017 for the

offences punishable under Section 307 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The First Information Report came to be registered against the applicant with the accusations that on 18.11.2017 around 11.00 a.m. when the non-applicant No.2 was sitting in the office of the School where she is working, the applicant came there and poured kerosene on his person. It is also alleged that remaining kerosene was thrown on the saree of the non-applicant No.2 and thereby attempted to burn the non-applicant No.2. It is stated that it is only because other teachers took the applicant in another room, the incident was not aggravated. It is alleged that the applicant committed said act in the public place only with the intention to kill the non-applicant No.2. The Investigating Agency has carried out the investigation and has filed charge-sheet against the applicant.

5. The applicant has therefore challenged registration of the First Information Report by filing present application. This Court on 12.03.2018 issued notice to the non-applicants. The non-applicant No.1 has filed reply stating that the Investigating Agency has carried out investigation and found residues of kerosene on the saree of the non-applicant No.2. It is also stated

that though one non-teaching staff has supported the allegations of the non-applicant No.2 in statement under Section 164 of the Code of Criminal Procedure; other teachers have not supported the allegations made by the non-applicant No.2. It is stated that 8 staff members of the School are not supporting the allegations of the non-applicant No.2. The non-applicant No.2 has also filed reply stating that the material on record shows that the applicant has committed the offence alleged against him.

6. We have carefully considered the allegations in the First Information Report. On careful scrutiny of the First Information Report along with the material produced by the applicant and the non-applicant Nos. 1 and 2 on record, it appears that though the applicant had poured kerosene on his person and the residues of kerosene was found on the saree of the non-applicant No.2, but it is undisputed fact that the applicant did not try to burn himself nor tried to burn the non-applicant No.2. It is also pertaining to note that 8 teachers of the said School have not supported the allegations made by the non-applicant No.2 against the applicant. Therefore, in our opinion, the essential ingredients of the offence under Section 307 of the Indian Penal Code are not fulfilled, even if, the allegations in the First Information Report are taken on their face value.

7. In so far as allegations in respect of the offence under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned, in our opinion, even if, the allegations in the First Information Report are assumed to be correct, still the ingredients of the offence alleged against the applicant under the provisions of the Act of 1989, are not fulfilled. We are, therefore, of the view that the continuation of present proceedings against the applicant would amount to abuse of process of Court.

8. We therefore, pass following order :

The First Information Report No.344/2017 dated 19.11.2017 for the offences punishable under Section 307 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, is quashed and set aside against the applicant.

9. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE