

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

CRIMINAL APPLICATION (APL) NO. 219 OF 2015

Nitin s/o Chandrakant Dhage,
Aged about : 34 years,
Occupation : Service,
R/o Tar Colony, Buldhana,
District : Buldhana.

... **APPLICANT**

V E R S U S

1. State of Maharashtra,
Through P.S.O. Police Station,
Buldhana (City),
District : Buldhana.
2. Vilas s/o Jagdeo Khanderao,
Aged about : 35 years,
Occupation : Terminated Helper,
R/o Shivshankar Nagar,
Chandak Layout, Chikhli Road,
Buldhana, District : Buldhana.

... **NON-APPLICANTS**

Shri V. B. Gawali, Advocate for applicant.

Shri S. P. Deshpande, Additional Public Prosecutor for Non-applicant No.1-State.

CORAM: Z.A. HAQ & AMIT B. BORKAR, JJ.
DATED : 25/02/2021.

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

1. By this application under Section 482 of the Code of Criminal Procedure, the applicant had challenged the registration of First Information Report No.3025/2015 registered with the non-applicant No.1 – Police Station for the offences punishable under Sections 323, 504 & 506 of the Indian Penal Code and Sections 3(1)(x) and 4 of the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Act of 1989").

2. The First Information Report came to be registered against the applicant with the accusations that the applicant on 30/01/2015 abused the non-applicant No.2 in the name of caste and also assaulted the non-applicant No.2.

3. This Court on 31/03/2015 issued notice to the non-applicants. In the meanwhile, it was directed that no coercive action be taken against the applicant. This Court on 15/02/2016 admitted the present application.

4. The non-applicant No.1, in pursuance of notice issued by this Court, has filed reply stating therein that on 30/01/2015, the applicant abused the non-applicant No.2 in the name of caste. It is stated that the Investigating Officer has recorded the statements of witnesses along with statement of complainant. It is further stated that both the witnesses were present in the office of applicant and the applicant abused the non-applicant No.2 in the name of caste and threatened him with dire consequences.

5. The non-applicant No.2 has also filed reply and has stated that Mr.Ramesh Mandalkar and Mr.Sunil Jumde were present in the office of applicant at the time of occurrence of incident on 30/01/2015. It is also stated that the Investigating Officer has recorded their statements wherein it is stated that the applicant had in fact hurled abuses in the name of caste against the non-applicant No.2 and threatened him with dire consequences.

6. We have considered the contents of First Information Report and the documents produced on record by the applicant. We have also scrutinized the statements of witnesses referred in the reply. From the documents available on record, it appears that there are counter complaints filed by the applicant against the non-applicant No.2 and the First Information Report is filed by the non-applicant No.2. On perusal of the statements of witnesses mentioned in the reply of the non-applicant No.2, it appears that in their statements, the witnesses have not stated that the applicant had abused the non-applicant No.2 in the name of caste on 30/01/2015. The witnesses have only stated that the applicant abused the non-applicant No.2. In view of the statements of witnesses, we are satisfied that the ingredients of

offence under the provisions of Act of 1989 are not fulfilled against the applicants.

7. Insofar as the offences alleged against the applicant under the provisions of the Indian Penal Code are concerned, same are non-cognizable offences. We are satisfied that the First Information Report registered against the applicant deserves to be quashed and set aside as the continuation of proceedings against the applicant would amount to an abuse of process of Court.

8. We, therefore, pass the following order :-

First Information Report No.3025/2015 dated 19/03/2015 registered with the non-applicant No.1 – Police Station against the present applicant for the offences punishable under Sections 323, 504 & 506 of the Indian Penal Code and Sections 3(1) (x) and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is quashed and set aside.

9. Rule is made absolute accordingly.

JUDGE

JUDGE

Choulwar