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

CRIMINAL WRIT PETITION 554 OF 2018

Sitaram Dashrath Vadhiwe,
aged about 68 yrs. Occ. Rtd. Teacher,
R/o. Dhamangaon (Kathpur),
Tah. Morshi, Dist. Amravati ..... **PETITIONER**

...V E R S U S...

1. State of Maharashtra,
through Police Station Officer,
Police Station Shirkhed,
Tah. Morshi, Dist. Amravati

2. Dipik s/o. Omkarrao Thakre,
age 45 yrs, Occ. Farmer,

3. Sanjay s/o. Balkrushna Bokade,
aged 40 yrs, Occ. Farmer,

4. Vivek s/o. Vaikunthrao Deshmukh,
age 45 yrs, Occ. Farmer,

5. Nikhil s/o. Gangadhar Hiwase,
age 27 yrs, Occ. Farmer,

6. Vilas s/o. Ganeshrao Hiwase,
age 35 yrs, occ. Farmer,

7. Narendra s/o. Janraoji Raut,
age 35 yrs, Occ. Farmer,

8. Satish s/o. Madhukarrao Dhakulkar,
age 35 yrs, Occ. Farmer,

9. Dhananjay s/o. Govindrao Sabale,
age 23 yrs, Occ. Farmer,

10. Shyam s/o. Subhash Badre,

age 23 yrs, Occ. Farmer,

11. Sunil s/o. Kisanrao Bhonekar,
age 30 yrs, Occ. Farmer,

12. Shyam s/o. Bhaiyyasaheb Deshmukh,
age 35 yrs, Occ. Farmer,

13. Gangadhar s/o. Gunwantrao Hiwase,
age 45 yrs, Occ. Farmer,

14. Prakash s/o. Sheshraoji Thakare,
age 50 yrs, Occ. Farmer,

15. Bhimraoji Deshmukh,
age 70 yrs, Occ. Farmer,

16. Shridharrao Vidhale Maharaj,
age 50 yrs, Occ. Religious Preacher,

All r/o. Javla, Tq. Chandur Bazar,
Dist. Amravati … **RESPONDENTS**

Mr. P. D. Sharma, counsel for petitioner.
Mr. N.R. Rode, APP for respondent 1.
Mr. M.N. Ali, counsel for respondents 2 to 16.

CORAM: ROHIT B. DEO, J.
DATE : 13.01.2021

ORAL JUDGMENT:

Heard Mr. P. D. Sharma, the learned counsel for the petitioner, Mr. N.R. Rode, the learned APP for respondent 1 and Mr. M.N. Ali, the learned counsel for respondents 2 to 16.

2. The petitioner, who is the complainant in Regular

Criminal Complaint 148/2015, is assailing the judgment dated 17.4.2018, rendered by the Sessions Judge, Amravati in Criminal Revision Petition 63/2017, whereby the summons issued for offence punishable under sections 147, 249 and 323 of Indian Penal Code and section 3(1)(1)(r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Atrocities Act"), is quashed.

3. The judgment of the Sessions Judge is unexceptionable. The process is quashed on the ground that in view of the amendment to the Code brought about with effect from 26.1.2016, it is only the Special Court constituted under section 14 of the Atrocities Act which has jurisdiction to take the cognizance of the offence under the said Act. In the case at hand, although the complaint was presented before the amendment, the cognizance is taken by the Magistrate after the amendment came into force. The order of taking cognizance is jurisdictionally vitiated.

4. The learned counsel for the applicant would then submit that the learned Sessions Judge failed to direct the Magistrate to commit the case to the Special Court, although he

did observe that the Magistrate could have done so. Mr. M.N. Ali, the learned counsel for the respondents 2 to 16 fairly states that the criminal complaint case is pending and is fixed on 30.1.2021.

5. The learned Magistrate shall consider committing the case to the Special Court, if otherwise permissible.

6. The decision shall be taken, either way, on 30.1.2021.

7. With the aforesaid direction, the petition is disposed of.

Judge

Belkhede RS