

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

CRIMINAL APPLICATION (APL) NO.891 OF 2018

Rajkumar S/o. Deorao Sahare,
Aged about 32 Yrs., Occ. - Service,
R/o. Shankarpur, Tahsil-Chimur,
Dist.- Chandrapur.

....**APPLICANT**

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer,
Bhisi, Tah.: Chimur, Dist.: Chandrapur.

2. Dalit S/o. Tarachand Shamkule,
Aged about 26 Yrs. Occ.-Private,
R/o. Shankarpur, Tahsil-Chimur,
Dist.- Chandrapur.

.... **NON-APPLICANTS**

Shri R. P Malviya, Advocate for the applicant.

Shri T. A. Mirza, A.P.P. for the non-applicant No.1/State.

Shri S. D. Tatake, Advocate for the non-applicant No.2.

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

DATE : 10.02.2021.

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

1. Heard.

2. Rule. Rule is made returnable forthwith.

3. This is an application under Section 482 of the Code of Criminal Procedure challenging the First Information Report bearing No.293/2018 registered with the Non-applicant No.1 – Police

Station for the offences punishable under Sections 324, 506, 504 of the Indian Penal Code read with Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

4. The First Information Report came to be registered against the applicant with the accusations that the sister of the applicant married with the non-applicant No.2 in the year 2014. It is further alleged that there was dispute as regards the share of sister of the applicant and the non-applicant No.2. It is further alleged that 15 days before the registration of the First Information Report, the applicant had called wife of the non-applicant No.2 and requested for mutating her name in respect of agricultural land. Thereafter, the applicant obtained signature of the wife of the non-applicant No.2 on the application for mutation. It is further alleged that on 11.09.2018, when the non-applicant No.2 was sitting alongwith his friends, the applicant came there and hurled abuses in the name of caste against the non-applicant No.2 and also injured the non-applicant No.2. The First Information Report is challenged by way of present application.

5. This Court on 08.10.2018 issued notice to the non-applicants for final disposal and by way of *ad-interim* relief, it was directed that no coercive steps shall be taken against the applicant.

6. The non-applicant No.1 has filed reply dated 03.12.2018 and it is stated that the non-applicant No.2 in the First Information Report has stated that the applicant did not give share to the wife of non-applicant No.2/complainant as regards the agricultural land and thereafter, on 11.09.2018, the applicant hurled abuses in the name of caste to non-applicant No.2 and also assaulted the non-applicant No.2 by fist and kick blows on the chest, back and head and on account of said assault, the non-applicant No.2/complainant got injured. It is further stated that the Investigating Officer has recorded statements of friends of the non-applicant No.2, who were present and they have supported to the case of the prosecution.

7. We have carefully considered the contents of the First Information Report. From the allegations in the First Information Report, it appears that there is dispute regarding agricultural land owned by the applicant and it was the non-applicant No.2 who was claiming share in the said land as the sister of the applicant was not given share by the applicant. From the First Information Report, it is clear that 15 days before the registration of the First Information Report, the applicant had obtained signature of the wife of the non-applicant No.2 on the mutation paper in respect of agricultural land.

8. The learned Advocate for the applicant invited our attention to the judgment of the Hon'ble Apex Court in the case of *Hitesh Verma Vs. State of Uttarakhand and another*, reported in (2020) 10 SCC 710. The Hon'ble Apex Court in paragraph Nos.13 and 18 has held as under :

“13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste.

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a

person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.”

9. The learned Advocate for the non-applicant No.2 has invited our attention to the judgment of the Hon’ble Apex Court in the case of *Vilas Pandurang Pawar Vs. State of Maharashtra* reported in **(2012) 8 SCC 795**. We have carefully considered the said judgment. In our opinion the ratio in the judgment of *Vilas Pawar* (cited supra) laid down by the Hon’ble Apex Court is in respect of the scope of Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Act of 1989”) in the context of Section 438 of the Code of Criminal Procedure. Therefore, the said judgment is of no help to the non-applicant No.2.

10. After considering the allegations in the First Information Report, it is clear that there was dispute between the applicant and the non-applicant No.2 in respect of agricultural land owned by the applicant. The alleged incident had occurred after 15 days of getting signatures of the wife of non-applicant No.2 by the applicant in respect of agricultural land owned by the applicant. In the backdrop of the said facts, in our considered view, observations of the Hon’ble Apex Court in the case of *Hitesh Verma* (cited supra)

in paragraph Nos.13 and 18 are squarely attracted. In the light of observations of the Hon'ble Apex Court, in paragraph Nos.13 and 18 of the judgment of *Hitesh Verma* (cited supra) we are of the view that, the First Information Report registered and material against the applicant does not fulfill the ingredients of the offence under Section 3 of the Act of 1989. Therefore, the continuation of the proceedings against the applicant would amount to abuse of process of Court.

11. We therefore, pass the following order :

The First Information Report bearing No.293/2018 dated 12.09.2018 registered with the Non-applicant No.1 – Police Station against the applicant for the offences punishable under Sections 324, 506, 504 of the Indian Penal Code read with Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 is quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

JUDGE