

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

CRIMINAL APPLICATION (APL) NO.937 OF 2015

1. Prakash S/o. Prabhuji Hirde,
Aged about 57 yrs., Occ. - APO
(Assistant Plantation Officer),
R/o. Wichori, Tq. Morshi, Distt. Amravati.
2. Anna S/o. Hari Patil,
Aged about 52 years, Occ.-Plantation Kotwal,
R/o. Gopal Nagar, Amravati,
Tq. and Distt. Amravati.
3. Vinod Ramdas Wankhade,
Occu.- Rojgar Sevak,
R/o. Khirsana, Tq. Nandgaon Khandeshwar
and Distt. Amravati.

....APPLICANTS

----- VERSUS -----

1. The State of Maharashtra, Through
Nandgaon Khandeshwar Police Station,
Distt. - Amravati.
2. Sau. Lalita Jiwan Mahore,
R/o. Village Sirsana,
Tq. Nandgaon Khandeshwar,
Distt. Amravati. (Police Station – Loni)..... **NON-APPLICANTS**

Shri Sawan Alaspurkar, Advocate for the applicants.
Shri S. D. Sirpurkar, A.P.P. for the non-applicant No.1/State.

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

DATE : 03.03.2021.

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

1. Heard.

2. By this application under Section 482 of the Code of Criminal Procedure, the applicants have challenged registration of the First Information Report No.134/2015 dated 31.07.2015 registered with the non-applicant No.1-Police Station for the offence punishable under Section 354-A read with Section 34 of the Indian Penal Code and Section 3(1)(xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The First Information Report came to be registered against the applicants with the allegations that she was working with the Social Forestry Department, Nandgaon Khandeshwar from 04.08.2014. It is alleged that on 03.06.2015 when the non-applicant No.2 was working at Saoner-Khirsana road, the applicants came and offended modesty of the non-applicant No.2. It is also alleged that one Mr. Chandu Mendhe came there and therefore, the applicants freed her. The applicants have therefore, challenged registration of the First Information Report by filing the present application.

4. This Court on 14.01.2016 issued notice to the non-applicants and directed that no coercive steps shall be taken against the applicants. This Court on 01.08.2016, issued Rule by *prima facie* observing that the First Information Report is registered as a counterblast due to termination of the services of the non-applicant

No.2 and directed that there shall be stay to the further proceedings against the applicants.

5. The non-applicant No.1 has filed reply and it is stated that there is sufficient material against the applicants to prove the offences alleged against them. It is stated that during the course of investigation, the Investigating Officer has recorded statements of witnesses which substantiates the story of the applicants. Therefore, it is prayed that the application deserves to be dismissed.

6. We have carefully considered the allegations in the First Information Report. From the allegations in the First Information Report, it appears that the alleged incident took place on 03.06.2015, but the First Information Report is filed on 31.07.2015 i.e. after almost 28 days of the alleged incident.

7. The learned Advocate for the applicants invited our attention to the order passed by the applicant No.2 dated 04.06.2015. On perusal of the said order, it reveals that the services of the non-applicant No.2 were discontinued due to non performance of work by the non-applicant No.2. We therefore, find substance in the submission of the applicants that the First Information Report has been lodged against the applicants as a

counterblast due to the order passed by the applicant No.2 to discontinue the non-applicant No.2 from her employment.

8. Shri S. D. Sirpurkar, learned A.P.P. for the non-applicant No.1/State has invited our attention to the statement of Chandu Mendhe. It is stated that he has witnessed the incident. We have carefully considered the statement of Chandu Mendhe.

9. Having considered the order passed by the applicant No.2 on 04.06.2015 and the description of the incident alleged by the non-applicant No.2 that, the applicants offended modesty of the non-applicant No.2 on open road, we find that the statement of Chandu Mendhe to be highly improbable.

10. In view of the order dated 04.06.2015, and delay in filing First Information Report, we are satisfied that the prosecution lodged by the non-applicant No.2 is not a legitimate prosecution. We are therefore, satisfied that the present case is covered by the Clause No.7 of the para 102 of the judgment of the Hon'ble Apex Court in the case of *State of Haryana and others Vs. Bhajanlal and others* reported in **1992 Supp. (1) SCC 335**.

11. We therefore, pass the following order.

The First Information Report bearing No.134/2015 dated 31.07.2015 registered with the non-applicant No.1-Police Station for the offence punishable under Section 354-A read with Section 34 of the Indian Penal Code and Section 3(1)(xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

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