

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

CRIMINAL APPLICATION (APL) NO. 907 OF 2016

1. Shri Chandu Gajanan Margonwar,
Aged 40 years, Occ. Ex.Sarpanch,
2. Pandurang Pochuji Kankalwar,
Aged 43 years, Occ :Agriculturist
3. Sau.Vaijanti Arun Margonwar,
Aged 45 years, Occ :Agriculturist.
4. Sunil Yadav Pogulwar,
Aged 40 years, Occ :Service
5. Shri Purushottam Laxman Chudhari,
Aged 43 years, Occ. Agriculturist
6. Govinda Gundji Komawar,
Aged 40 years, Occ. Agriculturist
7. Rushi Pochu Karhewar,
Aged 43 years, Occ. Agriculturist
8. Shri Suresh Kisan Zade,
Aged 45 years, Occ. Agriculturist
9. Tirupati Lachhaji Gaddamwar,
Aged 40 years,
Occ:Agriculturist
10. Smt. Shobha Moreshwar Jilpelliwar,
Aged 42 years, Occ. Agriculturist
11. Sau. Sangita Anil Margonwar,
Aged 39 years, Occ. Agriculturist
12. Shakuntala Deepak Telkuntwar,
Aged 40 years, Occ:Agriculturist
13. Anil Gajanan Margonkar,
Aged 42 years, Occ :Agriculturist

14. Rushi Bhima Puttawar,
Aged 45 years, Occ :Agriculturist

15. Munna Balaji Kotgale,
Aged 27 years, Occ :Agriculturist

16. Gurudas Sonrao Raut,
Aged 52 years, Occ :Agriculturist

17. Gajanan Keshav Aaknurwar,
Aged 42 years, Occ Agriculturist

18. Sushila Yella Narlewar,
Aged 45 years, Occ Agriculturist

All R/o Bembad, Tahsil Mul
District :Chandrapur.

.. APPLICANTS

...VERSUS..

1. State of Maharashtra,
Through Police Station Officer,
Mul, Tahsil Mul,
District Chandrapur

2.Sau. Chaya Arun Sedam,
Aged about 35 years, Occ. Social Worker,
R/o Chinchala, Tal.Mul,
District : Chandrapur.

NON-APPLICANTS

Shri Amol S. Mardikar, Advocate for the Applicants.

Ms. M. Deshmukh, Additional Public Prosecutor for the non-applicant no.1.

Shri N.S.Khandewale, Advocate for the non-applicant no.2.

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

DATED : 24.02.2021.

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

1. By this application under Section 482 of the Code of Criminal Procedure, the applicants have challenged registration of the First Information Report No.33/2016 registered with the non-applicant no.1 - Police Station for the offences punishable under Sections 143, 147, 149, 504, 509, 323 and 506 of the Indian Penal Code and under Section 3 (1) (xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. First Information Report came to be registered against the applicants with the accusations that on 21.1.2016 at the time of measurement of immovable property, there was dispute between the non-applicant no.2 and the applicants. It is alleged that there was altercation between the non-applicant and the applicants in relation to measurement of the property and, therefore, the applicant no.1 assaulted the non-applicant no.2 and abused her in the name of caste. It is further alleged that at that time, many citizens of the village were present.

3. The applicant, therefore, challenged registration of the First Information Report against them by filing the present application. This Court on 27th December, 2016 issued notice to the non-applicants and directed not to take coercive steps against the applicants. This Court on 22.3.2017 issued Rule and granted interim relief not to take coercive

steps against the applicants and not to file charge-sheet against the applicants.

4. The non-applicant no.1, in pursuance of the notice filed its reply and it is stated that the applicant no.1 assaulted the non-applicant no.2 and abused her in the name of caste in public view. It is also stated that there were 20 persons accompanying the applicant no.1, who had taken part in the assault. It is, therefore, prayed that the Criminal Application deserves to be dismissed.

5. During the course of arguments Shri Amol Mardikar, learned Advocate for the applicants stated that the applicant no.1 does not want to press relief as prayed and he wants to withdraw his challenge to the registration of the First Information Report, qua applicant no. 1.

6. We have carefully considered the contents of the First Information Report as against the applicant nos.2 to 18. From the allegations in the First Information Report, it appears that there are no allegations against the applicant nos.2 to 9 and 11 to 18 in relation to the ingredients of offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. We are, therefore, satisfied that the continuation of the proceedings under the

provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the applicant nos. 2 to 9 and 11 to 18 would amount to abuse of process of process of Court.

7. Insofar as the applicant no.10 is concerned, in connected application in relation to challenge of counter F.I.R. the Investigating Agency has filed reply dated 11.2.2016. The Investigating Agency in paragraph 5 of the said reply has stated that the applicant no.10 is not accused in crime no.33 of 2016. In view of the said statement of the Investigation Agency in Criminal Application No.76/2016, we are satisfied that the continuation of the proceedings against the applicant no.10 in relation to Crime No.33/2016 would amount to abuse of process of Court. We, therefore, pass the following order:-

Order

- (i) The Criminal Application of the applicant no.1 is dismissed as withdrawn with liberty to adopt appropriate proceedings in case charge-sheet is filed against the applicant no.1.
- (ii) F.I.R. No.33/2016 registered with the no-applicant no.1 - Police Station for the offence punishable only under Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in relation to the applicant nos. 2 to 9 and 11 to 18 is quashed , investigation in relation to offences punishable under

Sections 143, 147, 149, 504, 509, 323 and 506 of the Indian Penal Code shall continue in accordance with law.

(iii) F.I.R. No.33/2016 registered with the non-applicant no.1 – Police Station for the offences punishable under Sections 143, 147, 149, 504, 509, 323 and 506 of the Indian Penal Code and Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the applicant no.10 is quashed.

Rule is made absolute in the above terms.

JUDGE

JUDGE

ambulkar