

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

41 CRIMINAL APPLICATION NO.1600 OF 2021

SAGAR AKASH SURASHE (AS NAMED IN FIR) SAGAR S/O
KAKASAHEB SURASHE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr.Ajinkya Reddy, Advocate for the applicants.
Mr.R.V. Dasalkar, A.P.P. for respondent No.1.
Mr. S.S. Londhe, Advocate for respondent No. 2.

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CORAM : **V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 03-01-2022.

ORDER :

1. With consent of the parties, heard finally at the admission stage.
2. The applicants are seeking quashing of First Information Report (for short "F.I.R.") in Crime No. 378/2021 registered with Police Station, Ambad, District Jalna for the offences punishable under Section 3 (1) (r) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and under Sections 323, 327, 504, 506 read with Section 34 of the Indian Penal Code.
3. Learned Counsel for the applicants submits that the allegations have been made mainly against co-accused Sagar and Manoj whose application seeking quashing of the F.I.R. came to be

withdrawn. Though the names of the applicants before this Court are mentioned in the F.I.R., however the allegations against them are general in nature without attributing any specific role. Learned Counsel submits that the allegations have been made only to the effect that alongwith the co-accused persons these accused also extended beating to the informant and his wife. Learned Counsel submits that so far as the caste abuses allegedly uttered are concerned, those allegations are restricted against co-accused Sagar and Manoj.

4. Learned Counsel for respondent No. 2 submits that names of the applicants are mentioned in the F.I.R. with a specific role attributed to each of them. Learned Counsel submits that on 06.07.2021 son of the informant namely Bhanudas was beaten by co-accused Sagar and in connection with the said incident, the another incident had taken place on 10.07.2021. Learned Counsel submits that the applicants before the Court and the co-accused persons have obstructed the informant and his wife on way and subjected them to beating and caste abuses. Learned Counsel submits that the investigation is still going on. There are two eye witnesses referred in the F.I.R. Learned Counsel submits that there is no substance in the criminal application and the same is liable to be dismissed.

5. Learned A.P.P. submits that so far as the witnesses referred in the F.I.R. as eye witnesses namely Kantaram and

Majjubhai, they are not eye witnesses to the incident and their evidence is hearsay. Learned A.P.P. submits that so far as the informant's wife namely Muktabai is concerned, she had stated in her statement that these two applicants have extended beating to her. Learned A.P.P. has, however, admitted that so far as the caste abuses are concerned, those allegations have been made against co-accused Sagar and Manoj only and not against the present applicants.

6. We have carefully gone through the contents of complaint so also perused the police papers. In the complaint there are general allegations against these applicants to the effect that they have joined the co-accused persons and extended beating to the informant and his wife. Furthermore, the witnesses referred in the complaint as eye witnesses, have not actually witnessed the incident. So far as the witness Muktabai, who is the wife of the informant is concerned, though she has made allegations against these two applicants, however, the allegations are vague and absurd. Furthermore, there are no injury certificates and so far as these applicants are concerned, there are no allegations against them about the caste abuses.

7. In view of the same and in terms of the ratio laid down by the Supreme Court in case of ***State of Haryana vs. Bhajanlal and others***, reported in ***AIR 1992 SC 604***, we are inclined to quash the F.I.R. as against these applicants. In the instant case, even if

the allegations made in the F.I.R. are taken up on their face value and accepted them in their entirety, do not constitute any offence. Furthermore, considering the earlier incident dated 06.07.2021, the possibility of implicating all the family members in connection with the present crime, cannot be ruled out. So far as the applicants are concerned, the allegations appear to have been made against them with some oblique motive.

8. In view of the above, we are inclined to pass the following order.

ORDER

- (i) Criminal Application No. 1600 of 2021 is allowed in terms of prayer clause 'A'.
- (ii) We quantify the fees of the learned appointed Counsel at Rs. 3000/-, to be paid by High Court Legal Services Authority, Aurangabad.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)

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