

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1851 OF 2020

Shaik Farooq S/o. Shaikh Ibrahim,
Age: 45 years, Occu: Business,
R/o. Khadak Pura, Near Alankar Talkies,
Jalna, Tq. & Dist. Jalna.

... **APPLICANT**

VERSUS

1. The State of Maharashtra
through Police Station,
S.B. Jalna, Tq. & Dist. Jalna.

2. Devidas Uttamrao Jadhav
Age : 48 years, Occu: Labour,
R/o. Khadak Pura, Near Alankar
Talkies, Jalna, Tq. & Dist. Jalna.

... **RESPONDENTS**

...
Advocate for Applicant : Mr. Shaikh Mujtaba Gulam Mustafa
APP for Respondents: Mr. M.M. Nerlikar
Advocate for Respondent No.2 : Mr. M.L. Kolhe
...

**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

DATE : 11.10.2022

PER COURT :

Heard.

2. By invoking the powers of this Court under Section 482 of the Code of Criminal Procedure, the applicant who is accused No.1 in Crime No.529/2020 dated 21.08.2020, registered with Sadar Bazar Police Station, Jalna, District Jalna for the offences punishable under Section 143, 147, 149, 504, 506 of the Indian Penal Code and Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is praying for quashment of the crime.

3. Going by the allegations in the FIR lodged by the respondent No.2 it is alleged that the deceased brother of the informant respondent No.2 was owning a stall which was kept in front of the applicant's house on a public road. In order to enable the Municipal Council to lay down the road the stall was removed and before he could replace the stall the applicant parked his vehicle on the same spot. When the deceased asked him to remove the vehicle he was abused on caste lines. It is thereafter alleged that somehow the deceased managed to bring the stall and kept it behind the applicant's parked vehicle. The second episode occurred, wherein, again he was abused. It is alleged that the deceased set himself ablaze by pouring kerosene on his person and succumbed after few days.

4. The learned advocate for the applicant would vehemently submit that there are no specific and concrete allegations against the applicant. It was a genuine dispute. The deceased tried to place his stall in front of his house to which he had raised a *bona fide* objection. Even the version of the informant in the FIR is distorted. There is a CCTV footage showing that the deceased had poured kerosene on only the lower part of his body. The respondent No.2 informant had in fact seen pouring kerosene of the deceased on the upper part of his body. In fact the respondent No.2 ought to have been prosecuted for either the murder or its abetment. It would be improper to permit the applicant to face the prosecution on such a dispute and the proceeding be quashed.

5. The learned APP submits that at this stage there is enough material to reveal complicity of the applicant in the crime. A dying declaration has been recorded which corroborates the version in the FIR, the applicant is the main accused. Though *prima facie* he was not involved in the second episode, in the first episode a specific role is attributed to him of using foul language on caste lines.

6. We have carefully considered the rival submissions and perused

the papers. For the time being the allegations in the FIR, specifically attributing the applicant about having uttered abuses on caste lines stands duly corroborated by the dying declaration. At this juncture this much of material is sufficient to reveal applicant's complicity in commission of the crime *inter alia* under the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

7. In view of such state of affairs, we are afraid, the crime cannot be quashed.

8. As far as the other relief being claimed by the applicant to initiate some kind of prosecution against the respondent No.2 on the basis of incident as captured in the CCTV footage, it would be for the police to undertake further inquiry and to reach a logical conclusion.

9. The Criminal Application is partly allowed. The request for quashment of the crime and the criminal case is rejected. However, we direct the respondent No.1 - State to undertake inquiry on the basis of the CCTV footage collected by the applicant and produced on the record of this file.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)