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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.6135 OF 2019

1. Santosh Satyawan Waghmare	...
2. Satyawan Waghmare	...
3. Sunil Bhimrao Susalade	... Petitioners

Versus

1. The State of Maharashtra	...
2. Vitthal Kundalik Shinde	... Respondents

Mr. Umesh Mankapure for the Petitioners.

Ms. M. H. Mhatre APP for the Respondent No.1-State.

Mr. Vaibhav Kulkarni with Harshwardhan Suryawanshi for the Respondent No.2.

**CORAM : REVATI MOHITE DERE &
S.M. MODAK, JJ.**

DATE : 14TH OCTOBER 2022

ORDER (PER S.M. MODAK, J)

1 Heard learned counsel for the respective parties.

2 By this petition, the petitioners seek quashing of the FIR, bearing C.R. No. 452 of 2019, registered with the Kurduwadi Police Station, Solapur, dated 20th November 2019, for the alleged offences punishable under Sections 3(2)(va), 3(1)(i), 3(1)

(r), 3(1)(s), of the Schedule Caste and Schedule Tribes Act (for short "SC/ST Act"), and Sections 504, 506 r/w 34 of the Indian Penal Code.

3 According to the respondent no.2 (original complainant), the incident took place on 15th November 2019, at about 12.30 hours in an open ground, in front of the bus stand, when the first informant was present with his son - Vikram. The respondent no.2 has alleged that the petitioners refused to return the ATM card and instead started abusing him in filthy language, in the name of his caste. The petitioners' are alleged to have not only hurled abuses, but are also alleged to have threatened the respondent no.2. The respondent no.2 has stated that he had gone on 15th November, 2019 as on 14th November, the petitioners had asked him to meet them on the next date i.e. 15th November, 2019.

4. Quashing is sought on the premise, that there are no independent witnesses to the incident and that the incident had not taken "place within public view" as contemplated under section 3(1)(r) of the SC/ST Act. Learned Counsel for the

petitioner also submitted that the FIR was lodged belatedly, and as such was an afterthought. Mr.Mankapure relied on the judgment of the Apex Court in the case of **Hitesh Verma Vs. State of Uttarakhand and Anr** reported in **(2020) 10 SCC 710**.

5. Learned APP vehemently opposes the prayer for quashing of the FIR. She submits that the petitioners' case does not fall under any of the parameters as laid down by the Apex Court in the case of **State of Haryana Vs. Bhajanlal** reported in **1992 SCC (Cri.) 426**. It is submitted that there are disputed questions of facts involved, and as such, the petition ought not to be entertained.

6. After investigation charge-sheet has been filed. There are statements of witnesses. On going through the same, we find that the abuses and threatening are basic acts, and that the acts prima facie, violate the provisions of the SC/ST Act, on one hand and the Indian Penal Code on the other hand. The facts in the case of Hitesh Verma (supra) are clearly distinguishable and

as such will not have application to the facts in hand. Mere delay in lodging the FIR, in the facts, cannot be a ground for a quashing the FIR. We have perused the averments in the FIR. It is also not possible for us to go into these disputed questions of facts. Hence, no case is made out for quashing the FIR/chargesheet.

7. For the aforesaid reasons, Petition is dismissed.

8. We make it clear, that the observation made hereinabove are prima facie, made for the purpose of deciding the petition and that the trial court to decide the case on its own merits, uninfluenced by the same.

9. Petition is accordingly disposed of.

S. M. MODAK, J.

REVATI MOHITE DERE, J.