

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1766 OF 2022

Mr.Sunil Arjun Gite and others. ... Petitioners.

V/s.

Mrs.Jayashree Subhash Ranshevare & another. ... Respondents.

Mr.Nitin Gaware Patil with Narayan Gopinath Rokade
for the Petitioners.

Mrs.M.H.Mhatre, APP for the Respondent- State.

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CORAM : **NITIN JAMDAR AND
N.R. BORKAR, JJ.**

DATE : **14 July 2022.**

P.C. :

The Petitioners, three in numbers, have filed this petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 seeking to quash the FIR lodged by Respondent No.1 under sections 354, 323, 504, 506, 427, 34 of Indian Penal Code and under sections 3(1)(w)(i)(ii), 3(1)(r)(s), 3(2)(5-a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The reason given for quashing the FIR is consent given by Respondent No.1. The learned counsel for the Petitioners and

Respondent No.1 jointly pray that the FIR lodged by Respondent No.1 be quashed by consent of Respondent No.1. The learned counsel for the parties have relied upon the decision of the Supreme Court in case of *Ramavatar v. State of Madhya Pradesh*¹ and the order passed by this Court in the case of *Rakesh Shreshta v. The State of Maharashtra*².

3. In the FIR, the Respondent No.1 has stated that she stays with her two daughters and husband. They own an agricultural property situated at Sinner. The property was sold to one Neel Shankar Gupta but still in the possession of the Complainant's father. A civil dispute is pending between Shri Gupta and Respondent No.1. In the year 2020, Shri Gupta sold the agricultural property to the Petitioners. It is alleged that on 30 May 2021 the Petitioners entered the land and started sowing the field. The Complainant obstructed the tractor whereupon the Petitioners slapped her and in the scuffle her dress was torn. When the husband of the Complainant arrived, the Petitioners abused him with reference to caste and also assaulted him with fist and blows. Accordingly, the FIR was lodged in respect of above-mentioned sections.

4. An affidavit of consent is filed by Respondent No.1 stating that due to the intervention of close friends and respectable

¹ 2021 AIR (SC) 5228; 2021 All.M.R. (Cri) 4300

² WP No.3852/2019 decided on 29 October 2021

persons from the society, the parties have resolved the dispute and Respondent No.1 has no grievance against the Petitioners and has no objection if the FIR is quashed.

5. As regards the offences under the sections of IPC are concerned which have been invoked, the offences are not of that serious nature that the FIR cannot be quashed with the consent of Respondent No.1. There are no serious or grievous injuries. The civil dispute over the property is pending.

6. As regards quashing of the FIR and the proceedings under the Act of 1989, by consent of the Complainant the legal issue has been decided by the Hon'ble Supreme Court in the case of *Ramavatar*. In the case before the Supreme Court, the appellant and the complainant were neighbours. An incident took place, where the co-accused of the appellant broke down the wall and when it was resisted by the appellant, quarrel took place and an FIR was filed. On the next day, when the complainant was residing in front of a residence, the appellant and his brother, being aggrieved by the FIR by the complainant, abused her with repeated reference to her caste and threatened her with dire consequences. The investigation was taken further. The trial court found that the appellant's actions attracted offence under Section 3(1)(s) of the Act of 1989 and convicted the appellant. An appeal was filed before the High Court of Madhya Pradesh and the order of conviction was maintained by the High Court. Thereafter, the appellant had approached the

Supreme Court, and when the appeal came up for hearing, the parties had informed the Supreme Court that they have compromised the matter. Before the Supreme Court, the State, while not controverting the factum of compromise, opposed the quashing of crime in proceeding by consent contending that settlement between the parties is inconsistent in terms of Section 320 of Criminal Procedure Code. The Supreme Court negatived the contentions and observed that the inherent powers of the Supreme Court under Article 142 of the Constitution and of the High Court under Section 482 of the Criminal Procedure Code is not taken away to quash proceedings under the Act of 1989 by consent of parties, if a suitable case for such exercise is made out. The observations in that regard are found in paragraphs 15, 16 and 18 below:

“15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper-castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin-fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that

the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C.

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18. We may hasten to add that in cases such as the present, the Courts ought to be even more vigilant to ensure that the complainant-victim has entered into the compromise on the volition of his/her free will and not on account of any duress. It cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the Courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the Courts should consider, would depend on the facts and circumstances of each case.”

In view of the law laid down as above, it is permissible in law to quash this FIR by consent of the complainant.

7. The present FIR states that the Complainant's father had sold the property to Shri Neel Shankar Gupta and had continued in possession and that from Shri Gupta the property is purchased by the

Petitioners. Therefore, the Complainant's case in the FIR itself is that the Petitioners have purchased the property. The incident narrated has arisen when the Petitioners attempted to use the agricultural property which was purchased by them and, when the same was objected by the Complainant, an altercation took place. The reference of caste as stated in the FIR is general in nature. The statements recorded also give a very general nature of the statements made. The reading of the FIR does not show mental depravity on the part of the Petitioners.

8. As regards the object of the Act, which is for protection of persons belonging to weaker and backward sections of the society, even while quashing the proceedings under the Act by consent, the Court must ensure certain safeguards. With that view in mind, we had asked the learned counsel for Respondent No.1 as to the stand taken by Respondent No.1, whether on her own accord or coercion. The learned counsel for Respondent No.1 informed us that it was her free will. Respondent No.1 was present in the Court yesterday and we had directed the Registry to appoint two officers including one lady officer to interact with the Petitioner and Respondent No.1 separately and ascertain whether Respondent No.1 is willing to settle the dispute on her own accord. Such interaction has taken place. It is informed by the Court Officers present that not only Respondent No.1 has stated that she is settling the dispute on her own free will, but even the Petitioners have apologized to her, which apologies have been accepted by her. To take further care, we had asked the learned

Counsel for the Petitioners if the Petitioners are ready and willing to apologize to Respondent No.1. Learned Counsel for the Petitioners, upon instructions, stated that the Petitioners are ready to apologize to Respondent No.1 and are also ready to file affidavits.

9. Three different affidavits of apology have been filed by the Petitioners on 14 July 2022. Separate deeds giving apology are annexed. We have perused the affidavits. The apologies are entirely unconditional. It is also stated that the public apology is tendered by the Petitioners to Respondent No.1 and it is assured that they will not repeat such acts again. We have gone through the apologies. They are unequivocal and unconditional. Respondent No.1 has accepted the apologies through the advocate and also in person.

10. Considering these facts and the stand taken by the parties before us, it can be seen that the incident had been taken place at the spur of the moment. The Petitioners have shown true remorse which is also accepted by Respondent No.1. The Hon'ble Supreme Court has, in the case of *Ramavatar* in the identical circumstances, quashed the proceedings. We, therefore, find that a case for quashing the present proceedings is made out.

11. Accordingly, the writ petition is allowed. FIR bearing C.R.No.760/2021 for offences punishable under Section 3(1)(w)(i) (ii), 3(1)(r)(s), 3(2)(5-a) of the Act of 1989 and sections 354, 323, 504, 506, 427 and 34 of IPC lodged with Sinnar MIDC Police

Station, Taluka- Sinnar, district- Nashik at the instance of Respondent No.1 and consequently further proceedings arising out of said are quashed and set aside.

12. The Petitioners will pay Rs.10,000/- each to Maharashtra Police Welfare Fund (A/c.No.914010029005759, IFSC No.UTIB0000060) within four weeks. The order is conditional upon the payment.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)