

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

CRIMINAL APPEAL NO.104 OF 2022

Naresh s/o Mahadeo Borkar

Vs.

The State of Maharashtra, Through PSO, City Kotwali, Akola and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Gajanan L. Agrawal, Advocate for appellant.
Mr. N. S. Rao, APP for respondent no.1.
Ms. S. Khobragade, Advocate for respondent no.6.
Mr. S. A. Chaudhari, Advocate for respondent nos.7 and 8.

CORAM : AVINASH G. GHAROTE, J.

DATE : 06/07/2022

1. Heard Mr. Agrawal, learned counsel appearing for the appellant, Mr. Rao, learned APP for the respondent No.1, Ms. Khobragade, learned counsel for the respondent No.6 and Mr. Chaudhari, learned counsel for the respondent Nos.7 and 8.

2. The appeal challenges the impugned order dated 13.1.2020 passed by the learned Sessions Court, Akola whereby the application under Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the said Act") has been rejected by the learned Sessions Court.

3. Mr. Agrawal, learned counsel for the appellant submits, that the rejection is improper as there is *prima facie* material against the respondents, which indicates

the commission of the offence under Sections 3(1)(q) (za)(E) (zc) of the said Act. He therefore submits that the impugned order which ignores the above position is liable to be quashed and set aside and the complaint be directed to be registered under Section 4 of the said Act.

4. The learned counsels for the opposite parties oppose the appeal, contending that the impugned order rightly holds that there is no material on record and the appeal be dismissed.

5. The complaint came to be lodged by the present appellant, alleging that the respondents who were his employees, had illegally terminated him, and therefore, had committed the offence by misuse of their official position, with a view to cause harassment to the appellant. The incidents are narrated in the complaint dated 9.10.2019 (pg.32) and 4.12.2019 (pg.53). It is however material to note, that the appellant who was working on a contractual basis as an Encroachment Removal Officer with the Akola Municipal Corporation, came to be terminated before the expiry of the period of his contract. The termination has taken place on 21.6.2019. Such termination came to be challenged by the appellant before the learned Labour Court by filing Complaint ULP No.10/2019, in which, an application for interim relief came to be dismissed by an order dated 11.9.2019 on the ground that the appellant did not fall

within the definition of 'Labour' so as to invoke the provisions of the Maharashtra Recognition Of Trade Unions and Prevention Of Unfair Labour Practices Act, 1971 (MRTU and PULP) and revision against the said order bearing Revision ULP No.54 of 2019 also came to be dismissed by judgment dated 3.1.2020. The Complaint ULP No.10/2019 came to be withdrawn by the appellant by filing a Pursis to that effect before the learned Labour Court at Exh.U/14 upon which, the appropriate order came to be passed on 3.2.2020. Thus, the claim raised by the appellant challenging his termination before the learned Labour Court is no longer pending. What is material to note, is that in the complaint ULP No.10/2019, there are no such allegations, as have been sought to be made in the Complaint dated 9.10.2019 (pg.32) or in the Complaint dated 4.12.2019 (pg.53), which would clearly indicate that the allegations made in the complaint dated 9.10.2019 and 4.12.2019, were an after thought made merely with a view, to embroil the present respondents, by invoking the provisions of the said Act. This being the position, I do not see any infirmity in the impugned order dated 13.1.2020. The impugned appeal is without any merits and the appeal is accordingly dismissed.

JUDGE

Sarkate