

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

CRIMINAL APPLICATION (APL) NO.733 OF 2021

- 1) Shri Mahesh s/o Kaluprasad Sahu,
aged about 52 years,
occupation : business,
- 2) Sau. Renu w/o Mahesh Sahu,
aged about 48 years,
occupation : housewife,
- 3) Shri Rajesh Padda s/o Kaluprasad
Sahu, aged about 47 years,
occupation : business,

All are r/o Vilas Nagar, Galli No.2
and 3, Amravati.

- 4) Sau. Sushma w/o Pramod Sahu,
aged about 50 years,
occupation : business, r/o Bachhraj
Plot, Amravati.

... Applicants

- Versus -

- 1) The State of Maharashtra, through
Police Station Officer, Police Station,
Nandgaon Peth, Taluq and District :
Amravati.
- 2) Sau. Priti w/o Harishchandra Kumre,
aged about 36 years, occupation : nil,
r/o Sai Meher Apartment, Behind
Jawarkar Lawn, Nandgaon Peth,
Amravati.

... Respondents

Shri S.S. Shingane, Advocate for applicants.

Shri S.D. Sirpurkar, Additional Public Prosecutor for respondent no.1.

Shri S.I. Ghatte, Advocate for respondent no.2.

CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.

DATED : JUNE 23, 2022

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

Rule. Rule is made returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

2) Even though it is submitted by Shri Ghatte, learned Counsel for the respondent no.2, that the applicants have knowingly and intentionally hurled abuses on tribe lines at respondent no.2/complainant in a public view, we find that these allegations, as rightly submitted by Shri Shingane, learned Counsel for the applicants, are of general nature. The abuses have been allegedly given by the applicants to respondent no.2 on 30/11/2020, but the complaint has been lodged on 8/12/2020. The respondent no.2 has stated that after the incident of abuses, she got frightened and, therefore, she remained silent for a considerable period of time. Even though delay in lodging first information report cannot, by

itself, be reason for acquittal muchless quashing of the first information report, the delay has its own significance and its consequence has to be understood in the light of the entire facts and circumstances of this case. The allegations made in the complaint regarding alleged obscene abuses and tribe allegations are general in nature in the sense that the exact abuses given by the applicants have not been mentioned in the first information report except for the words that respondent no.2 belongs to lower caste and people belonging to lower caste have the business of looting people of big houses. However, even these allegations have not been supported by the daughter of the respondent no.2. Her statement shows that the applicants used some bad expletives against her mother, but what were those words exactly have not been mentioned in her statement. Besides this, there are no independent witnesses to this incident, who have come forward and given their statements in support of the case of the respondent no.2 even though some people had gathered at the spot of the incident.

3) The cumulative effect of the above referred facts and circumstances is that even if the allegations made in the first information report so far as offences punishable under Sections 294

and 506(2) read with Section 34 of Indian Penal Code and those registered under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are accepted at their face value and as true, still these allegations would not constitute the offences so registered against the applicants.

4) So far as the offence of rape under Section 376(2)(n) of Indian Penal Code is concerned, we find that there is not a single allegation against any of the applicants in respect of any forcible sexual intercourse and there is no dispute about this fact.

5) Shri Sirpurkar, learned Additional Public Prosecutor for the respondent no.1, also could not show to us anything more than what is concluded by us hereinabove.

6) In the result, this criminal application deserves to be allowed and it is allowed accordingly in terms of prayer clause (I), which is reproduced thus :

“(I) allow the present application and thereby quash and set aside the First Information Report registered by the respondent no.1 Police Station Officer, Police Station, Nandgaon Peth, Taluq and District Amravati, vide crime no.0324/2020 u/s 376(2)(n), 294, 506(2) of Indian Penal Code and Section 3(1)(w)(i)(ii), 3(2)(v),

3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (Annexure-III) and charge sheet dated 31.12.2020 vide no.107/2020 for the offences punishable u/s 376(2)(n), 294, 506(2) of Indian Penal Code and Section 3(1)(w)(i)(ii), 3(2)(v), 3(2)(va), 3(1)(r)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (Annexure-V) in the interest of justice.”

JUDGE

JUDGE

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