

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO.16 OF 2021

1. Arpit Rajendra Jaiswal
Aged about 27 years,
Occupation – Business
R/o. Satav Chowk, Jatharpeth,
Tah. & District Akola
2. Rajnikant Namdevrao Satav
Aged about 38 years,
Occupation – Service,
R/o. Tapadia Nagar,
Tah. & District Akola

...APPLICANTS

VERSUS

1. State of Maharashtra,
through its Officer-in-charge of
Police Station Old City,
Akola
2. Sanjay Jagdeo Hatole
Occupation – Labourer
Aged 55 years,
R/o. Bhagirathwadi,
Washim Bypass,
Old City, Akola

...NON-APPLICANTS

Correction is carried
out as per Hon'ble
Court's order dated
30/11/2022.

Shri S.P. Dharmadhikari, Senior Advocate assisted by
Shri A.R. Deshpande, Advocate for the applicants.
Shri T.A. Mirza, Additional Public Prosecutor for non-applicant
No.1/State.

CORAM : ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.
DATE : NOVEMBER 14, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

ADMIT. Heard finally with the consent of learned Counsel for the parties.

2. By preferring this application, the applicants are seeking relief for quashment of First Information Report (hereinafter referred to as the 'FIR' for short) vide Crime No.381/2020 registered at police station Old City, Akola for the offences punishable under Sections 323, 324, 504, 342, 365 and 506 read with Section 34 of the Indian Penal Code (hereinafter referred to as 'the IPC' for short) and Section 3(1)(r) (s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. It is the contention of the applicants that applicant No.1 is a businessman and belongs to reputed family. Applicant No.2 works in a liquor shop. Non-applicant No.2 lodged the FIR against the applicants on an allegations that he was serving in one liquor shop. On 07/10/2020 at about 1.00 p.m. Manager Ravi Satav who was working in the liquor shop of J.B. Jaiswal came to the house and informed him that his owner had called him. Accordingly, he went in front of liquor shop of one S.N. Jungade. He further alleged that both the applicants abused him on his caste and assaulted him. On the basis of said report, police

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have registered the offence. However, during investigation the informant has changed his statement which was recorded on 10/10/2020 and submitted him that due to some apprehension he had lodged the FIR. He also filed an affidavit before the Sessions Judge in the bail application and stated on oath that the FIR has been registered by him out of misunderstanding and fear. He had filed reply before the Sessions Court and contended the similar facts. While releasing one of the accused on bail, this fact is also recorded by the Single Judge of this Court in Criminal Appeal No.426/2020 that the informant had submitted due to misunderstanding and out of fear he has filed the complaint. It is contended by the applicants that considering the same, FIR registered against them be quashed and set aside.

4. In response to the notice of the said application, State has objected the said application on the ground that there is *prima facie* material against the present applicants and hence application deserves to be rejected.

5. Heard both the sides and perused the record.

6. The offence is registered on the basis of report lodged by non-applicant No.2. It is alleged by non-applicant No.2 that he was abducted and brought in front of liquor shop of one Shri Jungade and

some amount was demanded from him. During the investigation his statement was recorded and he changed his version. It appears that there was some civil dispute pending between one Jaykumar Brijkishor Jaiswal and the informant. When applicant No.1 applied for grant of bail before the Sessions Court, informant had filed his reply and submitted that due to misunderstanding, he had lodged the FIR. The Sessions Court has recorded the same in the order. The Single Judge of this Court had also recorded that there are no allegations of abduction which appears to be added later on. It is also recorded that the informant has appeared through his learned Counsel and reiterated that due to misunderstanding and out of fear, he has filed the report. Even on the merits if the recitals of the FIR are perused, there is no allegation that present applicants abducted him and assaulted him. There is no allegation that the applicants abused him on his caste within the public view.

7. In the light of above facts and circumstances, admittedly there is no *prima facie* material against the present applicants to attract the offence punishable under Sections 323, 324, 504, 342, 365 and 506 read with Section 34 of the IPC and Section 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

8. Considering the peculiar facts, we are of the view that no purpose would be served by compelling the applicants to face the prosecution, therefore, the application deserves to be allowed.

9. In the result, we proceed to pass the following order :

(i) The criminal application is allowed.

(ii) The First Information Report vide Crime No.381/2020 registered at police station Old City, Akola for the offences punishable under Sections 323, 324, 504, 342, 365 and 506 read with Section 34 of the Indian Penal Code and Section 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the charge-sheet bearing No.15/2021, are quashed and set aside.

10. Rule is made absolute in the aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

**Divya*

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out as per Hon'ble
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30/11/2022.