

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

CRIMINAL APPLICATION (APL) NO.1080 OF 2022

Karishma d/o Satishrao Vaidya,
Aged about 28 years,
Occupation – Chief Officer,
Nagar Panchayat, Bhatkuli,
R/o. Rathi House,
Near Ram Mandir, Bhatkuli,
Tq. Bhatkuli, District Amravati

...APPLICANT

VERSUS

1. State of Maharashtra,
through Police Station Bhatkuli,
Tq. Bhatkuli, District Amravati
2. Satish s/o Shankarrao Athawale,
Aged about 36 years,
Occupation – Member,
Nagar Panchayat, Bhatkuli,
R/o Bhatkuli, Tq. Bhatkuli,
District Amravati

...NON-APPLICANTS

Shri J.B. Kasat, Advocate for the applicant.
Shri M.J. Khan, Additional Public Prosecutor for non-applicant
No.1/State.
Shri P.S. Tembhare, Advocate for non-applicant No.2.

CORAM : ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.
DATE : NOVEMBER 15, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

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

2. The accused in Crime No.145 of 2022 for the offences punishable under Sections 3(1)(m), 3(1)(s), 3(1)(r) and 3(1)(l) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Atrocities Act' for short) and Sections 504 and 506 read with Section 34 of the Indian Penal Code (hereinafter referred to as 'the IPC' for short), has approached to this Court by filing this application under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'the Cr.P.C.' for short), for quashing of First Information Report (hereinafter referred to as 'the FIR' for short).

3. On 29/07/2022, Satish Shankarrao Athawale has lodged the report against the applicant who is serving as a Chief Officer of Nagar Panchayat, Bhatkuli alleging that the informant Satish Athawale is elected as a Member of Nagar Panchayat from the reserved category. On 29/07/2022 he had been to the office of the applicant to enquire regarding general meeting in respect of development of village. At that time he was humiliated, insulted and driven out from the office. On the basis of said report, police have registered the offence against the present applicant.

4. It is the contention of the applicant that on 29/07/2022, the informant along with one Shrikant Rathi had been to her office at about

12.00 noon when she was in the meeting hall for holding General Body meeting.

5. They entered into the hall when the meeting was about to start and intimidated the applicant which resulted into delay in holding the General Body meeting. Thereafter the informant along with said Rathi entered into in her cabin and threatened her that he will lodge false complaint under the Atrocities Act. Therefore, she approached to the police station and lodged the report. On the basis of her report Crime No.144/2022 was registered against the informant and said Shrikant Rathi under Sections 353, 504, 506 and 186 read with Section 34 of the IPC. To give counter blast to the said complaint this false FIR was registered against the present applicant. She further submitted that from the recitals of the FIR no offence under the Atrocities Act are made out. Only to give counter blast to the complaint filed by the present applicant, this FIR was registered against her. To compel the applicant to face the trial would be abuse of process of law, hence the FIR registered against her be quashed and set aside.

6. Heard Shri J.B. Kasat, learned Counsel for the applicant. He reiterated the same contentions. In support of his contention he relied upon ***Prathvi Raj Chauhan Vs. Union of India and ors. (2020) 4 SCC 727*** wherein it is held that where *prima facie* case is not made out,

anticipatory bail can be granted. He further relied upon ***Hitesh Verma Vs. State of Uttarakhand and anr. (2020) 10 SCC 710*** wherein it is held that the ingredients of the offence punishable under Sections 3(1)(r), intentional insult with intent to humiliate member of SC/ST in any place within public view. Presence of members of the public inside a building or enclosed space could render such place a “place in public view” due to presence of members of the public. It is further held that basic ingredients that words were uttered “in any place within public view”. It is further held that the Court can in exceptional cases exercise power under Section 482 of the Cr.P.C. for quashing the cases to prevent misuse of provisions of settled parameters as already observed while deciding the review petitions by referring the judgment of *Prathvi Raj Chauhan Vs. Union of India and ors. (supra)*.

7. On the other hand, learned Additional Public Prosecutor submitted that there is *prima facie* material to attract the provisions against the present applicant, hence no interference is called for. Non-applicant No.2 has also opposed the said application on the ground that where the incident occurred within a public view or not is a matter of evidence. There is a *prima facie* material against the present applicant and hence application deserves to be rejected.

8. Heard both the sides and perused the record.

9. It reveals from the record that on 29/07/2022, present applicant had lodged the report against the informant Satish Shankarrao Athawale and Shrikant Balkisan Rathi that on 29/07/2022 when she was about to start the General Body meeting they entered in the meeting hall and intimidated her. Subsequently, they also entered her chamber and threatened her that they will lodge the complaint against her under the Atrocities Act. It reveals from the record that Crime No.145/2022 was registered against the present applicant subsequently on 29/07/2022. The recitals of the FIR shows that on 29/07/2022, they visited the office of the present applicant but the present applicant has not responded to their enquiry and left the place. Thereafter they were waiting in the waiting hall. After returning from meeting also the applicant not responding to them and asked the police to remove them from the office. It is alleged that the present applicant insulted them by using unparliamentary language and by abusing on his caste. Admittedly, general allegation is made in the FIR that non-applicant No.2 was abused by the applicant on his caste. The exact words uttered by the applicant are not stated in the application. It is well settled that insult or abuse on the ground of SC/ST must be with an intention to insult or humiliate the member of the SC or ST in any place within the public view. Admittedly, alleged offence has taken place in the cabin of the applicant. There is no allegation that the other members were present and in presence of

public, applicant had insulted. Even the exact words are not stated by the informant.

10. It is observed by this Court in the case of *Sitaram s/o Mahadu Dhadve Vs. The State of Maharashtra and ors. 2012 ALL MR Cri. 1097* that insult or abuse on the ground of Scheduled Castes or Scheduled Tribe must be with intention to insult or humiliate a member of a Scheduled Caste or Scheduled Tribe in any place within the public view. There is no such allegation against the applicant. Though the offence is registered against the applicant under Sections 504 and 506 of the IPC to attract the offence of criminal intimidation under Section 506 of the IPC the ingredients of the offence that threatening with any injury to any person, reputation or property with intent to cause alarm to that person is absent in the present case. To attract the offence punishable under Section 504 of the IPC the exact words of provocation are not mentioned in the FIR. Thus, *prima facie* it appears that this FIR is lodged only to give counter blast to the FIR earlier lodged by the present applicant. The allegations in the FIR are not sufficient to attract the offence punishable under Sections 3(1)(m), 3(1)(s), 3(1)(r) or 3(1)(l) of the Atrocities Act and Sections 504 and 506 read with Section 34 of the IPC.

11. From the above referred contents of the FIR, we do not find that any of the allegations made in the FIR make out a case against the

applicant. Thus, we have arrived at the conclusion that from the contents of the FIR no offence is constituted under the above provisions. Having observed that the offences on the subject under the Atrocities Act or under the IPC are not attracted, the application deserves to be allowed.

12. Hence, we proceed to pass the following order :

- (i) The criminal application is allowed.
- (ii) The First Information Report vide Crime No.145 of 2022 registered at police station Bhatkuli, Tq. Bhatkuli District Amravati for the offences punishable under Sections 3(1)(m), 3(1)(s), 3(1)(r) and 3(1)(l) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 504 and 506 read with Section 34 of the Indian Penal Code, is quashed and set aside.

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

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

**Divya*