



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1109 CRIMINAL APPLICATION NO.426 OF 2023

Satish S/o. Maruti Borude.

... Applicant

Versus

1. The State of Maharashtra.

2. Yogesh S/o. Anil Ghodke.

... Respondents

...

Mr. Aniruddha A. Nimbalkar, Advocate for Applicant.

Ms. R. R. Tandale, APP for Respondent No.1 / State.

Ms. Sunita G. Sonawane, Advocate for Respondent No.2.

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CORAM : R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.

DATE : 12th December, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This is an application, under Section 482 of the Code of Criminal Procedure, 1973, for quashing the FIR and consequential charge-sheet in Special Case No.78 of 2023, pending in the Court of learned District Judge-1 and Additional Sessions Judge, Shrigonda, District Ahmednagar, for the offences punishable under Sections 323, 324, 504 and 506 read with 34 of the Indian Penal Code, 1860 and Sections 3(1) (r), 3(1) (s) and 3 (2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3 Respondent No.2/informant averred in the report that applicant Satish belongs to Mali community. On 23rd March, 2022 at about 04:30 pm, near Kashti road, Shrigonda bridge, the informant alongwith his friend Tushar Jagtap were proceeding towards Bhaji Mandhi Chowk. That time, the applicant alongwith one another unknown person, was proceeding by the motorcycle. He spit after looking towards the informant. The informant asked him as to why he spit. That time, the applicant said him that, are you not knowing me. He caught hold his throat and slapped him and said that "तुम्ही म्हारा मांगाचे लोक जास्त माजले आहात तुम्हाला इंगा दाखवलाच पाहिजे". Thus, the applicant abused the informant on caste at public place. That time, the applicant took one stone and assaulted on the right leg of the informant. He also assaulted informant with kicks and fist blows. The friend of informant (Tushar), rescued him. The pillion rider of that motorcycle assaulted his friend Tushar and threatened him to kill. The people were gathered. Therefore, the applicant and his friend ran away from that place. Therefore, he lodged the report on the same day.

4 The learned counsel for applicant submitted that false report is lodged. In fact, the applicant was assaulted by the informant and his two friends. He pointed out the photographs snapped at the time of assault. He further pointed out a report, which was lodged by

the applicant against the informant and his two friends. According to that report, the applicant was assaulted by the informant and his friends. The applicant was beaten by stone and he sustained injuries to his left eye and arm. He lastly submitted that shooting/recording of that incident was done by someone, which was displayed on social media. *Panchanama* of that pen-drive dated 14th June, 2022 shows it was duly seized. The learned counsel for applicant lastly prayed to allow the application by quashing the report and charge-sheet.

5 The learned counsel for respondent No.2 strongly opposed the application and contended that the applicant abused the informant on caste and also assaulted him. The report is immediately lodged. Considering the serious nature of offence, she lastly prayed to reject the application.

6 The learned APP produced the pen-drive of recording of that incident. It was displayed on the computer. We have watched it carefully.

7 Perused the report and the charge-sheet. We have watched the recorded incident on computer with the help of pen-drive produced by the learned APP, which shows that three persons are beating this applicant. The informant is one out of them. Applicant's shirt is torn. The images of that recording filed on record by the

applicant, are same. If counter reports are considered alongwith recording, which we have seen on the computer with the help of pen-drive, then it shows that in fact the applicant was seriously assaulted by respondent No.2 and co-accused.

8 The learned APP pointed out that the informant sustained blunt trauma to his leg. On the contrary, the learned counsel for applicant pointed out that the applicant also sustained three abrasion injuries. Occurrence of the incident is not denied by both sides. Considering the nature of those incidents, such injuries are bound to sustain to the informant. The informant/respondent No.2 and his friends were aggressive and in that fight such injuries are possible. However, on that basis, finally the applicant cannot be held liable and punished.

9 All these facts and circumstances show that the applicant is falsely implicated in this crime. Thus, there is no material to proceed against the applicant. It would be an abuse of process of Court if the applicant is compelled to face the trial. The application deserves to be allowed. The application is, therefore, allowed in terms of prayer clauses (B), (B-1) and (B-2). No costs.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]