

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1204 OF 2022

GANESH ROHIDAS SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Mahesh L. Muthal
APP for Respondent No.1: Mrs. Vaishali S. Choudhari
Advocate for Respondent No.2 : Mr. Shirish M. Kamble
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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 27th JULY, 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 Cr.P.C. for quashment of FIR No.27 of 2022 registered with Parali Gramin Police Station, district Beed and the consequential charge sheet filed for the offences punishable under Sections 354, 354A, 509 of I.P.C. and Section 3(1)(w)(i) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989 and the further proceedings bearing Special Case No. 29 of 2022, pending in the file of learned Additional Sessions Judge, Ambejogai, district Beed.
3. The respondent No.2/informant had filed the aforesaid F.I.R. alleging that she belongs to Scheduled Caste category. The applicant is her neighbourer. Two days prior to the incident, the

applicant used to urinate in her presence. He used to say her by body language to come at Akhada and he is alone. To maintain the reputation in the society, as a married woman, she did not tell about the same to anybody. On 26.01.2022 at about 10.00 a.m. her mother went for grazing she-goats. Her two brothers and father also went for job. At about 1.00 p.m. when she was sleeping on the cot in the tin shed adjacent to her house, the applicant, who belongs to Maratha community, came there and slept on her body. When she made hue and cry the applicant ran away. Therefore, she lodged the report on the same day at about 8.00 p.m.

4. The learned advocate for the applicant submits that there is previous enmity between the family of the applicant and the informant on account of agricultural land. Father of the applicant Rohidas Balasaheb Shinde had filed Regular Civil Suit No 4 of 2011 in the Court of learned Civil Judge, Junior Division, Parali Vaijnath, District Beed on 17.1.2011. The said suit was decreed on 3.9.2019 and therefore, he is falsely implicated in the crime. The applicant has filed copy of judgment and decree on record. The learned advocate for the applicant therefore, prayed that the application deserves to be allowed.

5. The learned A.P.P. for respondent State and the learned advocate for respondent No.2/informant have strongly opposed the application on the ground that there are serious allegations against

the applicant. There is sufficient evidence against the applicant and since the offence is under the Atrocities Act as well, they prayed for rejection of the application.

6. Perused the charge sheet. Though there are allegations of outraging of the modesty of the informant, the report and the statements of witnesses do not inspire confidence about the alleged incident. From the documents annexed with the application, particularly the copy of judgment and decree, it appears that there is previous enmity between the family members of the applicant and the informant. Therefore, on such allegations, compelling the applicant to face the trial would be an abuse of process of Court. Thus, the application deserves to be allowed.

7. In view of the above, criminal application is allowed in terms of prayer clause "B". No costs.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

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