

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

CRIMINAL APPLICATION NO.1561 OF 2023

- 1) Meera W/o. Bhausahab Rade.
2) Parubai W/o Ganpat Khod. ... Applicants

Versus

- 1) The State of Maharashtra.
2) Radha @ Sangita Dharamsing Sutar. ... Respondents

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Ms. Sushama Tukaram Jadhav, Advocate for Applicants.
Mr. R. B. Bagul, APP for Respondent No.1 / State.
Mr. S. V. Dixit, Advocate for Respondent No.2. (Appointed).

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

DATE : 01st August, 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 quashment of FIR No.231 of 2022 dated 19th October, 2022, registered with Police Station Peth Beed, Taluka and District Beed, and consequential charge-sheet, for the offences punishable under Sections 341, 323, 504 and 506 read with 34 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3 The informant / respondent No.2 averred in the FIR that she was knowing to Parubai Khod and Mirabai Rade as they met in a *Bazar*. Therefore, they were knowing her caste that the informant belonging to the “Mahar” a Scheduled Caste. She was serving with one Sushilkumar Shivaji Jadhav as labourer. He took the informant and other women for lifting some tin-sheets on 19th October, 2022 at about 20:00 to 02:30 pm in the market. When they were picking up tin-sheets, the applicants came there on two motorcycles of two unknown persons. Applicant Meerabai loudly said not to pick up the tin-sheets and abused the informant and others by saying “माहरा मांगाहो चला येथून चालते व्हा”. The applicants started to beat the informant and others by caught holding their hands. The applicants dragged the informant and others and expelled them from that place. The three boys, who came with the applicants, also abused the informant and others and said them to go from that place. They insulted the informant and others. Therefore, she lodged the report on 19th October, 2022 at 10:17 pm.

4 The learned counsel for the applicants argued that a false report is lodged in order to give counterblast to the FIR lodged by Kshritik Navnath Khod on the same day i.e. on 19th October, 2022 at

05:17 pm, who is a relative of applicant No.2, in which he alleged that one Ganesh Asaram Chandak and Dinesh Asaram Chandak slapped him. The other five to six persons caused damage to his hotel by means of JCB machine. They have stolen the some grocery items and Rs.15,500/- were forcibly taken from him by Dinesh Chandak. Therefore, a crime bearing FIR No.229 of 2022 was lodged in the same police station, for the offences punishable under Sections 327, 427 and 143 of the Indian Penal Code. That place was belonging to applicant No.2 Parubai Ganpatrao Khod.

5 The learned counsel for the applicants also pointed out that bogus documents were mutated by the Municipal Council, Beed regarding land bearing survey Nos.1 and 2 owned by one Sarubai Sakharam. In plot No.22 of APMC, Beed, applicant No.2 was running a hotel, which was demolished by one Mr. Chandak in presence of MLA Sandip Kshirsagar and police officers without having any legal authority. That time, Mr. Chandak and his followers assaulted applicant No.2 and her daughter. They sustained injuries. They went to police station for lodging the FIR. On instigation of Chandak brothers, respondent No.2 Radha lodged false report against these applicants illegally, even though nothing happened there. He lastly prayed to allow the application by quashing the FIR and charge-sheet in question.

6 The learned APP for the State and the learned counsel for the informant strongly opposed the application. They contended that the FIR depicts the names of the applicants. They have insulted the informant and others by abusing them on their caste. The applicants have also beaten the informant and others and therefore, FIR was lodged immediately on the same day. They lastly prayed to reject the application.

7 Perused the charge-sheet. No doubt the names of the applicants are mentioned in the FIR. Though incident took place at about 02:00 pm to 02:30 pm, the FIR is lodged at 10:17 pm. Delay caused for lodging the FIR is not explained. The FIR lodged by the relative of applicant No.2 on the same day at 05:17 pm, discloses that Ganesh Chandak and Dinesh Chandak have caused damage to the hotel of applicant No.2 and therefore, crime was registered against them bearing FIR No.229 of 2022, for the offences punishable under Sections 327, 427 and 143 of the Indian Penal Code. Therefore, even though there are statements of some witnesses stating the fact that applicants insulted the informant and others by abusing them on their caste, it can be firmly held that the FIR in question is lodged in order to give counterblast to the earlier FIR lodged by the relative of applicant No.2. In such fact situation, compelling the applicants to face the trial,

would be an abuse of process of the Court. The application deserves to be allowed. The application is, therefore, allowed in terms of prayer clause (C). No costs.

8 The fees of the appointed counsel for respondent No.2 is quantified at Rs.7,000/-, to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

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