

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 3071 OF 2022**

1. Ashok Vishwanath Gaikwad,  
Age : 50 Years, Occu. Agri.,
2. Mohan Bhanudas Kokate,  
Age : 70 Years, Occu. Agri.,
3. Chandrakant Mohan Kokate,  
Age : 38 Years, Occu. Agri.,
4. Rukmin Mohan Kokate,  
Age : 65 Years, Occu. Household,
5. Jyoti Chandrakant Kokate,  
Age : 30 Years, Occu. Household,  
All R/o. Rui (Dhoki), Tq. & Dist. Osmanabad. **... Applicants.**  
(Orig. Accused)

**Versus**

1. The State of Maharashtra,  
Through Dhoki Police Station,  
Tq. and Dist. Osmanabad.
2. Vaishali W/o. Ajit Ruikar,  
Age : 34 Years, Occ. Labour,  
R/o. Rui (Dhoki) Tq. & Dist. Osmanabad. **... Respondents**  
(Orig. Complainant)

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Mr. Sambhaji S. Wakure, Advocate for Applicants.  
Mr. G. O. Wattamwar, AGP for Respondent No.1 – State.  
Mr. P. B. Gapat, Advocate for Respondent No.2.

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**CORAM : MANGESH S. PATIL AND  
ABHAY S. WAGHWASE, JJ.**

**RESERVED ON : 12 APRIL 2023**

**PRONOUNCED ON : 21 APRIL 2023**

**JUDGMENT (PER ABHAY S. WAGHWASE, J.) :**

All applicants herein have prayed for quashing of the FIR bearing No.305 of 2021 registered with Dhoki Police Station, Tq. and Dist. Osmanabad for offences punishable under sections 143, 147, 148, 149, 324, 323, 506 of Indian Penal Code 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, and the consequential charge-sheet and criminal case bearing Special Case No.14 of 2022 pending on the file of learned District Judge-1 and Additional Sessions Judge, Osmanabad.

2. Inviting our attention to the FIR, learned counsel for applicants would submit that above FIR is offshoot of civil litigation. Allegations levelled in the present complaint are apparently false, baseless and are raised with the sole intention of harassing applicants. Learned counsel emphasized that even allegations are vague and without particulars. That, there is a clear attempt of misuse the provisions of law to settle the score. Learned counsel pointed out that on going through the FIR it is revealed that no role whatsoever is attributed to applicant no.4 Rukmin and applicant no.5 Jyoti, however they too are named in the FIR. That, it being abuse of process of law, it is submitted that, relief as prayed deserves to be granted.

3. In answer to above, learned AGP for the State as well as learned counsel for respondent no.2 would submit that allegations are specific. There is caste abuse coupled with assault/beating. Roles are clearly defined. In view of the serious allegations of caste abuse, applicants do not deserve relief as prayed. For all above reasons, it is submitted that application be rejected.

4. After considering the rival contentions of both sides and bearing in mind the scope of powers for exercising section 482 of the Code of Criminal Procedure, we have examined the FIR. Complainant has alleged that applicants herein were grinding the Soyabin crop, which allegedly belonged to respondent-informant. On being questioned to that extent, it is alleged that initially Mohan Bhanudas Kokate and Chandrakant Mohan Kokate i.e. applicant nos.2 and 3, by uttering caste abuse, asked complainant to leave the field. She has alleged that applicant no.4 assaulted her with sickle on the wrist and accused no.5 Jyoti beat her with kicks and fists. Accused no.2 made a phone call and called Pandurang and he also allegedly uttered caste abuses. However, said Pandurang is not before this Court seeking any relief.

5. Therefore, on minute scrutiny of FIR, allegation of caste abuses are attributed to Mohan and Chandrakant, whereas it is emerging that no allegations about caste abuses are made against Rukmin and Jyoti, i.e. applicant nos.4 and 5, however against them there are allegations of beating.

Therefore, under such circumstances, charge for commission of offences under the Atrocities Act apparently does not get attracted against applicant nos.4 and 5. Resultantly, continuation of prosecution against these two applicants, in our view, does amount to abuse of process of law i.e. for commission of offences under the Atrocities Act. But, they are required to face charges for other offences under Indian Penal Code. There being clear allegations of caste abuses, as against applicant nos.1 and 2, they are not entitled for any relief.

In the light of above discussion and taking recourse to the ruling in the case of *Hitesh Verma Vs. State of Uttarakhand and Another*, (2020) 10 SCC 710, which permits quashment of the part charge-sheet, in our opinion, charge for commission of offence under the Atrocities Act alleged against applicant nos.3 and 4 deserves to be quashed and set aside. Consequently, we proceed to pass following order :-

#### **ORDER**

(i). Criminal application is partly allowed.

(ii). Crime and charge-sheet against applicant nos.4 and 5 only to the extent of commission of offence of Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is quashed and set aside.

(iii) Charges for commission of offences under the Atrocities Act as against applicant nos.1 and 2 and under Indian Penal Code are kept intact. Similarly, charges under Indian Penal Code as against applicant nos.4 and 5 are also kept intact.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)