



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3201 OF 2023

Umesh Shankar Patil and Ors. ... Petitioners.
V/s.
State of Maharashtra and Anr. ... Respondents.

Mr. Umesh H. Pawar, for the Petitioners.
Ms. M.H. Mhatre, APP for the Respondent-State.
Mr. Kuldeep U. Nikam, for Respondent No.2.

CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.
DATE : 9th October, 2023.

ORDER : (Per Sharmila U. Deshmukh, J.)

1. By this Petition filed under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973, the Petitioners seeks quashing of CR No.327 of 2023 registered with Miraj Rural Police Station, District Sangli for the alleged offences punishable under Section 295 of the Indian Penal Code, 1860 and Sections 3(1)(r), 3(1)(s) and 3(1)(t) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "SC/ST Act").
2. Heard Mr.Pawar, learned Advocate for the Petitioners, Ms.M.H. Mhatre, learned APP for the Respondent-State and Mr. Nikam, learned Advocate for Respondent No.2.
3. Mr. Pawar, learned Advocate for the Petitioners submits that, the FIR does not disclose the details as to date and time of the alleged

incident. According to him, in view of the Government Resolution dated 16th April, 2018, as there was prohibition on the construction work of the Welcome Arch, the same was demolished by the Grampanchayat. He would contend that, to attract the alleged offences under the SC/ST Act, the offence has to be committed in public place and within public view, which requirement is absent in the present case. He would submit that, there are material contradictions in the FIR lodged by the Respondent No.2 and the construction of the Arch commenced by the private person is illegal one.

4. Learned APP has submitted the record of investigation for perusal of this Court and points out the statements of the witnesses viz. Devdas Rajkumar Kamble and Mahadeo Balu Kamble which corroborates the statement of the first informant.

5. We have considered the submissions and have perused the record. The case of the prosecution as spelt out by the FIR is that, in the year 2002, an application was made to the Gram Panchayat, Bedag seeking permission for erection of the Welcome Arch to be named after Bharat Ratna Dr.Babasaheb Ambedkar, which was approved by the Gram Panchayat Sabha by their Resolution dated 18th March, 2002. That the foundation stone was laid on 16th February, 2006 and subsequently the work was stopped by the villagers on 28th August, 2008. That, on 23rd

January, 2023, it was resolved by the Gram Panchayat that subject to the Government Resolution dated 16th April, 2018, the Gram Panchayat has no objection to the erection of the Arch. It is alleged that, since 5th February, 2023, the work of construction commenced from the funds contributed by villagers belonging to the Scheduled Caste community. It is alleged that, during the construction of the Arch, the Petitioners, who are the Members of the Gram Panchayat, hurled casteist remarks thereby insulting the members of the Scheduled Caste and hurting their sentiments.

6. It is further alleged that, despite the Resolutions of the Gram Panchayat, the Petitioners without cancelling the earlier Resolutions and without obtaining the signature of the Village Development Officer have issued the notice dated 17th March, 2023 for stopping the work of construction of Arch. That, on 6th June, 2023, under the pretext of the erection of the Arch creating an obstruction to the traffic, police protection was sought for removal of the erection and the Welcome Arch was demolished. It is alleged that, by demolishing the Welcome Arch erected in the name of Dr.Babasaheb Ambedkar, who is considered sacred by the members of the members of Scheduled Caste, the sentiments of the members of Scheduled Caste community have been hurt.

7. The sum and substance of the allegations in the FIR is that,

pursuant to the Resolutions passed by the Gram Panchayat, the Members of the Scheduled Caste Community by contributing their own funds had commenced the erection of the Welcome Arch named after Dr. Babasaheb Ambedkar and while the work of construction was going on, the Petitioners uttered caste related abuses hurting the sentiments of the members of the Scheduled Caste community. The allegation is two fold firstly that, caste laced abuses were hurled hurting the sentiments of the community and secondly that, there has been destruction of the welcome arch considered sacred by the members of Scheduled Caste community by reason of it being named after Dr. Babasaheb Ambedkar.

8. Firstly, it needs to be noted that in these proceedings, we are not concerned with the legality of the construction work of the welcome arch. The issue is whether the allegations in the FIR taken as it is, constitute the alleged offences viz Section 295 of IPC read with Sections 3 (1)(r), 3(1)(s) and 3(1)(t) of the SC/ST Act.

9. Sections 3(1)(r), (s) and (t) of the SC/ST Act are attracted when there is intentional insult or intimidation with intent to humiliate a member of the Scheduled Caste in any place within a public view. If we peruse the FIR carefully, the allegation is that while the work of construction of the Welcome Arch was going on, the Petitioner No.1, who is the Sarpanch alongwith the grampanchayat members uttered casteist

remarks. The exact words of the caste related abuse have been alleged in the FIR, which is corroborated by the statement of two witnesses viz. Devdas R. Kamble and Mahadeo B. Kamble recorded during the investigation. The presence of the Petitioners as well as witnesses, who have corroborated the statement in the FIR prima facie, indicates that the utterances were made in public place and within public view. The utterances which are specific in nature, prima facie indicates the intention to humiliate the members of the concerned community. The contention of the learned Advocate for Petitioners that specific date and time is not given is liable to be rejected as the precise words of caste related abuse have been alleged in the FIR and as such the FIR cannot be stated to be general or vague. In our opinion, the allegations in the FIR, taken at its face value prima facie satisfies the ingredients of the offences under the SC/ST Act.

10. To constitute an offence under Section 295 of the IPC, the necessary ingredients are destruction, damage, or defilement of a place of worship or an object held sacred, with intent to insult the religion of a class of persons with a knowledge that any class of persons is likely to be considered such destruction or damage as insult to their religion. The Petitioners were fully aware about the sentiments of the members of the Scheduled Caste community attached to the work of erection of the

Welcome Arch named after Dr. Babasaheb Ambedkar, which was being erected by the members of the Scheduled Caste Community out of their own funds. The members of the Scheduled Caste community considered the Welcome Arch as sacred as the same was named after Dr. Babasaheb Ambedkar, who is held in high esteem. The perseverance with which the members of the concerned community pursued the work of erection of the Arch to the extent of constructing the same with their own funds prima facie demonstrates the sanctity which was attached by the members of the Scheduled Caste community to the Welcome Arch. As such, the allegations in the FIR prima facie meets the ingredients of Section 295 of IPC.

11. Mr. Pawar wants this Court to, not only examine the veracity of the allegations but also to enter into the arena of defence to ascertain the legality of the construction work, which was demolished. It is settled that at the stage of considering the Application for quashing of proceedings, the inquiry contemplated is whether the FIR makes out a sufficient case for proceeding further against the accused. Considering the allegations in the FIR, we are of the opinion that a strong prima face case is made out. At this stage it cannot be concluded that no cognizable offences have been disclosed in the FIR.

12. We find no merits in the Petition and it is accordingly dismissed.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)