

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO.1541 OF 2014
A/W
INTERIM APPLICATION NO.474 OF 2021
IN
CRIMINAL WRIT PETITION NO.1541 OF 2014
A/W
CRIMINAL APPLICATION NO.31 OF 2018
IN
CRIMINAL WRIT PETITION NO.1541 OF 2014**

Chagan Bapu Kharat ... Petitioner.
Vs.
State of Maharashtra & Ors. ... Respondents.

CHITRA
SANJAY
SONAWANE

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Ms Yogini A. Ugale, Advocate for the Petitioner.
Mr HJ Dedhia, APP for State.
Mr Rahul S. Kate for Respondents No.2, 5 to 10, 12 to 18,
20 to 26, 28, 31 to 34, 38 to 40, 43 to 48.

Coram : R.N.Laddha, J.
Date : 12 September 2023.

....
P.C.:

Heard Ms Yogini A. Ugale, the learned Counsel for the petitioner; Mr H.J.Dedhia, the learned Additional Public Prosecutor for the State, and Mr Rahul S. Kate, the learned Counsel for respondents no.2, 5 to 10, 12 to 18, 20 to 26, 28, 31 to 34, 38 to 40, 43 to 48.

2. This petition is filed against the judgment and order dated 1.3.2014, passed by the Additional Sessions Judge, Baramati, in Criminal Revision Application No.85 of 2011, confirming the order of the learned Judicial Magistrate, First Class, in RCC No. 41 of 2011, whereby the learned Magistrate refused to issue process against the accused under Sections 3(1) (x) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocity) Act (for short 'the Act'), and 351, 378, 383, 384, 323, 504, 506, 410, 441 read with 34 of the Indian Penal Code (IPC). The learned Magistrate, however, issued a process against accused no.1 for the offence punishable under Sections 504 and 506 (2) IPC.

3. The petitioner, Chagan Babu Kharat, who is a member of a Scheduled Caste, owns agricultural land in Kambaleshwar. On his land, he has planted a variety of trees. The second respondent, a Sarpanch of village Kambaleshwar, allegedly used his undue influence to threaten the petitioner and 46 other respondents. They reportedly cut down all the trees and excavated soil from the land using a JCB machine for his greenhouse. They also developed the land and constructed a twenty-foot road through it. Additionally, they are accused of destroying an electric motor on the borewell located on the land and damaging the pipeline without the petitioner's permission. On 10.5.2010, the petitioner reportedly made a mobile call to the accused, Namdev Mahadeo Tambe, at his cell number. However, the accused, Namdev, abused

him on his Caste.

4. In the present case, the verification statement of the petitioner, the original complainant, does not attract the provisions of Sections 3(1)(x) of the Act. From the material placed on record, it is clear that the petitioner had not witnessed the alleged incident of cutting trees, damaging the pipeline and borewell. Though the witness, Shivaji Kharat, claimed that he saw respondents on the spot, the same is not the case of the petitioner.

5. By a catena of decisions, the Hon'ble Supreme Court ruled that issuing a process on a private complaint is a serious matter, and the law provides a safeguard in the form of examination of the complainant under oath as per Section 200 of the Code of Criminal Procedure. The purpose of this is to ascertain the truth by questioning the complainant under oath.

6. On perusal of the material placed on record, and more particularly, the averments in the verification statement of the petitioner/original complainant, no case is made out for interference.

7. For the forgoing reasons, there is no merit in this petition. The petition stands dismissed accordingly.

8. In view of the disposal of the writ petition, the pending applications stand disposed of.

[R.N.Laddha, J.]