

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2004 OF 2023**

Santosh Tukaram Mulik and Ors.

... Petitioners

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Sachin B. Thorat for Petitioners.

Mr. Ajay Patil, APP for Respondent-State.

Mr. Ashok Janrao for Respondent No.3

**CORAM : A.S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 22nd JUNE, 2023.****PC. :**

1. Petitioners, accused in C.R.No. 05 of 2023 dated 7th January 2023 registered with Tembhurni Police Station, Sholapur (Rural) under Sections 376(2)(n), 354, 354-A, 452, 504, 506 and 34 of Indian Penal Code and under Sections 3(1)(s), 3(2)(va), 3(2)(5), 3(1)(w)(i)(ii) and 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 have filed present Petition under Article 226 of the Constitution of India and Section 482 of the Criminal Procedure Code for quashing of the said crime with consent of Respondent No.3, the victim.

2. Learned Advocate for the Petitioners submitted that, the allegations as contemplated under Section 376 of the Indian Penal Code are against Petitioner No.1. It is the allegation against Petitioner No.2 that, he abused

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Respondent No.3 on her caste. As far as Petitioner No.3 is concerned, it is alleged that from his handset Petitioner No.1 extended threats to Respondent No.3. He submitted that Petitioner No.1 and Respondent No.3 have resolved their differences amicably and Respondent No.3 has agreed to give her consent to quash the crime in question.

Learned Advocate for the Petitioners submitted that, in the case of *Ramawatar Vs. State of Madhya Pradesh reported in 2021 SCC OnLine SC 966*, the Hon'ble Supreme Court has observed that where it appears, offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar line, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a special statute would not refrain the Supreme Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 of Cr.PC.. He therefore prayed that, the said crime be quashed.

3. Learned Advocate for Respondent No.3 tendered across the bar her Affidavit dated 22nd June 2023, duly affirmed before a notary public. It is stated therein that, as the shop of Petitioner No.1 was situated near the

shop of Respondent No.3, she got very well acquainted with him and became good friends. Their relations were subsequently strained due to differences and disputes between them. That, due to strained relations, she has filed the present crime against the Petitioners. After registration of present crime, their common friends including the husband of Respondent No.3 and other reputed persons from their village decided to resolve the disputes and differences between them and as a result thereof, Respondent No.3 has decided to give her consent for quashing of the crime in question.

4. Perusal of the First Information Report indicates, that the Prosecutrix was a married women having a daughter, on the date of lodgment of crime. Her shop was situated near the shop of Petitioner No.1. Their acquaintance blossomed into an extra marital affair and when their relations came into light and her husband questioned her about it, she has lodged present crime. As noted earlier, the allegations against Petitioner No.2 are that, after he came to know about the relations between Petitioner No.1 and Respondent No.3, he abused Respondent No.3 on her caste. As far as Petitioner No.3 is concerned, from the handset of his mobile phone, Petitioner No.1 extended threats of serious consequences to Respondent No.3.

5. In view thereof and in view of the decision of Hon'ble Supreme Court in the case of *Ramawatar (Supra)*, we are inclined to quash the crime in question.

6. As we expressed our opinion for quashing of said C.R.No. 05 of 2023 dated 7th January 2023 registered with Tembhurni Police Station, Sholapur (Rural), learned Advocate for Petitioners, on instructions, submitted that Petitioners will pay a cost of Rs.50,000/- to Central Police Welfare Fund within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

7. We direct the Petitioners to pay a cost of Rs.50,000/- to Central Police Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

The details of the bank account for payment of cost are as under :

Bank Name	:-	Axis Bank Limited.
Branch Name	:-	Worli, Mumbai (M.H.), Mumbai-400 025
Account Name	:-	Central Police Welfare Fund
Account Number	:-	914010029005759
IFSC Code	:-	UTIB0000060

Petitioners to deposit the said cost of Rs.50,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

8. In view of above, subject to the payment of cost, the Petition is allowed in terms of prayer clause (A).

9. It is made clear that, if the cost is not paid within stipulated period as mentioned above, this Petition shall stand revived automatically and in that

event, the Investigating Agency will complete the investigation of C.R. No.05 of 2023 expeditiously.

10. List the Petition on 20th July 2023 under caption 'for reporting compliance' of present Order.

11. All concerned to act on the basis of an authenticated copy of this Order.

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)