



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 1014 OF 2019

- 1) Ramesh S/o Yashwant Bajirao,
Aged about 47 years, Occu. - Service,
R/o. B2/2, 5-D, Niramal Nagri,
Umrer Road, Nagpur.
- 2) Prakash S/o Shivaji Bhongade,
Aged about 45 years, Occu.- Service,
R/o. B1/1, 1-B, Niramal Nagri,
Umrer Road, Nagpur.
- 3) Ajay S/o Parasram Malviya,
Aged about 48 years, Occu.-Service,
R/o. B1/1, 2-C, Niramal Nagri,
Umrer Road, Nagpur.
- 4) Dinesh S/o Shrikrishna Khandelwal,
Aged about 36 years, Occu.-Business,
R/o. B1/1, C-6, Niramal Nagri,
Umrer Road, Nagpur.
- 5) Sanjay S/o Daulatrao Burde,
Aged about 48 years,
Occu.-Medical Practitioner,
R/o. B2/2, 7-D, Niramal Nagri,
Umrer Road, Nagpur.
- 6) Ajay S/o Bhagirath Goenka,
Aged about 57 years, Occu.-Business,
R/o. B2/5, 2-B, Niramal Nagri,
Umrer Road, Nagpur.
- 7) Jagdish S/o Baburao Dongarwar,
Aged about 65 years, Occu.-Retired,
R/o. A2/2, 7-C, Niramal Nagri,
Umrer Road, Nagpur.
- 8) Gopal S/o Keshao Sharma,
Aged about 43 years, Occu.-Business,
R/o. A1/2, 7-C, Niramal Nagri,
Umrer Road, Nagpur.
- 9) Arun S/o Shrikant Bhure,

Aged about 64 years, Occu.-Retired,
R/o. B2/F, 2-D, Niramal Nagri,
Umrer Road, Nagpur.

.... **APPLICANTS**

// **VERSUS** //

- 1) The State of Maharashtra,
Through its Police Station Officer,
Police Station, Nandanwan Police
Station, Nagpur (City), Nagpur.
- 2) Shri Praful S/o Manohar Shende,
Aged about 42 years, Occu. Business,
Office at A2/1, 3A, Nirmal Nagri,
Umrer Road, Nagpur.

.... **RESPONDENTS**

Mr. Anil Mardikar, Senior Advocate a/b Mr. K.S. Malokar,
Advocate for applicants.
Mr. A.B. Badar, Additional Public Prosecutor for respondent
No.1/State.
Ms. Astha Sharma, Advocate (appointed) for respondent No.2.

CORAM : **VINAY JOSHI AND**
VALMIKI SA MENEZES, JJ.

DATED : **12.10.2023**

ORAL JUDGMENT : (Per Vinay Joshi, J.)

1. Heard.
2. **Rule.** By consent of the learned counsel appearing for the parties, the matter is taken up for final disposal.
3. This is an application seeking to quash the First Information Report (FIR) relating to Crime No.960/2018, registered with Police Station Nandanwan, Nagpur City, for an offence punishable under Sections 3(1)(r)(s)(u)(v)(zc) of the

Scheduled Caste, Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the 'SCST Act') read with Section 34 of the Indian Penal Code (IPC).

4. At the instance of informant Praful Shende, crime has been registered alleging that the group of person has committed various offences with the intention to humiliate the informant, who belongs to the member of Scheduled Caste. It is informant's case that all of them are residing in the same township. On 09.11.2017, there was agitation of the resident of the society against builder for not providing sufficient amenities. In said agitation, the applicants have allegedly stated to the informant that he is "देशद्रोही गुलाम". The informant has neglected the same. Then on 26.11.2017 in the morning, there was a meeting of society members. It is applicants' contention that in presence of Nitesh Ingale, Ruturaj More and Usha Ingale, there were utterances that informant is a leader, and made caustic remarks. In the same breath, informant stated that such uttering was not in his presence therefore, he has not lodged the report.

5. The informant alleges that on 10.11.2017 in the morning, applicants have again referred informant as a member of 'Schedule Caste'. Lastly on 11.12.2017, the informant has stated that applicant No.9 - Arun sent a whatApp message to the informant branding him to be engaged in "गुलामगीरी". It is informant's

contention that despite repeated use of abusive words, the Police did not take action therefore, he has approached to the Magistrate in terms of Section 156(3) of the Code of Criminal Procedure. In pursuance of the directions issued by the Magistrate, the crime has been registered.

6. We have examined the entire allegations made in the Police report as well as gone through the statements of the witnesses referred in the report. In order to constitute the offence under the provisions of SCST Act, there must be intentional insult or intimidation with intent to humiliate a member of a particular community. The abuses must be within the public view. We have examined the entire material in the light of the Penal provisions invoked in the police report. The reading of entire report, nowhere specifies in whose presence the applicants have uttered the caustic remarks that too with the knowledge and intention. It appears that there was a fraction in the Society and on account of providing amenities, the dispute arose. Though, there is a reference in the report that the informant was referred by his caste, however, the report is silent about the utterances by particular accused. The statement made in general sense would not assist the informant.

7. The Supreme Court in the case of **Yogesh Laxman Pandav and others Vs. State of Maharashtra**, reported in **2023 SCC OnLine Bom 229**, has observed that if the utterance

are in chorus, then it is difficult to constitute the commission of offence. The entire tenor of report is that in presence of somebody else there were utterances. Moreover, the utterance is not specific to convey that they pertain to caustic remarks or made with an intention to humiliate. In order to impress the submission that the utterance must be intentional to humiliate the member of Schedule Caste or Schedule Tribe, reliance is placed on the decision of Supreme Court in case of **Hitesh Verma Vs. State of Uttarakhand and another**, reported in **(2020) 10 SCC 710**. It reveals that everything erupted on account of dispute in between the society members for providing amenities. Perusal of the statement of relevant witnesses discloses that they have made general allegations about the dispute and saying by someone. There is no material even on *prima facie* basis to hold that the informant was threatened to socially boycott that too on account of being member of Schedule Caste and Schedule Tribe.

8. In the case of **State of Haryana Vs. Bhajan Lal**, reported in **1992 S.C. 629**, the Supreme Court has set out parameters on the basis of which the material is to be assessed. Having overall view of the matter, the case squarely falls in category-I and III of the above decision. Considering the nature of material collected, the chances of conviction are remote and bleak. In the circumstances, continuation of prosecution amounts to the abuse of the process of the Court.

9. In view of above the application is allowed. We hereby quash and set aside the FIR relating to Crime No.960/2018, registered with Police Station Nandanwan, Nagpur City, for an offence punishable under Sections 3(1)(r)(s)(u)(v)(zc) of the Scheduled Caste, Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 34 of the Indian Penal Code.
10. Fees of the learned Counsel (appointed) for respondent No.2 be quantified and paid as per rules.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

Kirtak