IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 14865 of 2023

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RAMANBHAI MAGANBHAI MARVADI

Versus

STATE OF GUJARAT

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Appearance:
MR.KIRIT R CHAUDHARI(3745) for the Applicant(s) No. 1,2,3,4,5,6
for the Respondent(s) No. 2
MS DIVYANGANA JHALA, APP for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 03/01/2024
ORAL ORDER

1. **RULE**. Learned advocates waive service of notice of rule on behalf of the respective respondents.

2. Learned advocate for the petitioner seeks permission to with the present petition qua the petitioner nos.2, 5 and 6.

3. Permission as prayed for is granted. The present petition stands disposed of as withdrawn qua the petitioner No.2-(Marvadi) Manilal Maganbhai, petitioner No.5-Akashbhai Ramanbhai (Marvadi) and petitioner No.6-Dilipbhai Maganbhai Marvadi. Rule discharged qua petitioner Nos.2, 5 and 6.

4. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the petitioner Nos.1, 3 and 4 have prayed to quash and set aside the complaint being FIR **C.R. No.11209020231330 of 2023**

registered with Idar Police Station, Sabarkantha for the offences under Sections 143, 147, 323, 504 and 506(2) of Indian Penal Code, 1860, under Section 135 of the Gujarat Police Act and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, **Atrocities Act**") as well as all the consequential proceedings arising therefrom.

5. Learned advocate for the petitioner submits that the present petitioners are belong to the Schedule Castes and Scheduled Trbies Community in support of his contentions he has already filed castes certificate of the petitioners on record.

6. In view of the submission of learned advocate, it appears that the petitioners are belong to scheduled castes and scheduled tribes community and the petitioner Nos.1, 3 and 4 are belong to same community and in this regard caste certificate is on record at Annexure-C.

7. Considering the fact that petitioner Nos. 1, 3, and 4 belong to the SC/ST Community, and all three petitioners also belong to the same community, and against them, offences under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act were leveled, as the object of the Atrocities Act is to improve the condition of the SC/ ST Community, who remain vulnerable, and for the welfare of the community and to improve the socio-economic condition of the SC/ST Community, the special resolution being enacted to prevent the commission of offences of atrocities against the members of the SC/ST Community. The punishment provided

under the provisions of Atrocities Act is for whoever is not a member of the SC/ST Community; herein, the accused persons belong to the SC/ST Community. Therefore, the provisions of the Atrocities Act herein do not get attracted.

8. In the aforesaid backdrop, complaint is filed. It is necessary to consider whether the power conferred by the High Court under section 482 of the Code of Criminal Procedure is warranted. It is true that the powers under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage as the Hon'ble Supreme Court has decided in the case of **Central Bureau of Investigation vs. Ravi Shankar Srivastava, IAS & Anr.**, reported in **AIR 2006 SC 2872**.

9. In the result, the application is partly allowed qua the **petitioner No.1-Ramanbhai Maganbhai Marvadi, petitioner No.3-**

Ranjitbhai Isvarbhai Marvadi and petitioner No.4-Pravinbhai @ Vonted Sendhabhai in connection with Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act only. The impugned complaint being **C.R. No.11209020231330 of 2023 registered with Idar Police Station, Sabarkantha punishable under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act** as well as all consequential proceedings initiated in pursuance thereof are hereby quashed and set aside qua the petitioner Nos.1, 3 and 4 qua Atrocities Act only. Rule is made absolute to the aforesaid extent. Direct service is permitted.

10. It is clarified that this petition is allowed with respect to the Atrocities Act only, and the Investigating Agency is directed to continue the investigation under the provisions of the Indian Penal Code and other relevant provisions, excluding the Atrocities Act.

(HASMUKH D. SUTHAR,J)

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