



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.360 OF 2024

- 1) Dattatrey s/o Sayanna Rajawar,
Age-43 years, Occu:Service,
R/o-ND-120, Guruwar Bazar, Cidco,
Taluka and District-Nanded,
- 2) Dnyaneshwar s/o Laxman Potgunde,
Age-40 years, Occu:Agriculture,
R/o-Kiwia, Taluka-Loha, District-Nanded,
At present: R/o-ND-120, Guruwar Bazar,
Cidco, Taluka and District-Nanded.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Officer In-charge,
Nanded (Rural) Police Station,
Taluka and District-Nanded,
- 2) Babysaroja D/o Namdev Gavali,
Age-36 years, Occu:Household,
R/o-ND-120, Guruwar Bazar, Cidco,
Taluka and District-Nanded.

...RESPONDENTS

...
Mr. Nilkanth Pandurang Bangar Advocate for Applicants.
Mr. A.M. Phule, A.P.P. for Respondent No.1.
...

**CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 14th AUGUST, 2024

ORDER :

1. Present Application has been filed under Section 482 of the Code of Criminal Procedure for quashing the First Information Report (for short "the FIR") vide Crime No. 158 of 2023 registered with Nanded Rural Police Station, District-Nanded and the proceedings in Special Case No.67 of 2023 pending before the learned Special Judge under the Atrocities Act, Nanded for the offence punishable under Section 3(1)(r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Section 452, 504, 506 read with Section 34 of the Indian Penal Code and Section 4 punishable under Section 25 of the Arms Act.

2. Heard learned Advocate for the applicants and learned APP for respondent No.1. Respondent No.2 though served, failed to appear.

3. Learned Advocate for the applicants as well as learned APP have taken us through the contents of the FIR as well as material in the charge-sheet. According to the learned Advocate for the applicants, the contents of the FIR as well as the material does not attract the offences under which the charge-sheet is filed. The FIR does not say that there was insult in the name of

caste and it was heard by any third person. So also it was not within public view.

4. Learned APP supports the charge-sheet.

5. Perusal of the FIR would show that when the informant was in the house around 3.30 p.m. on 7th March 2023, at that time both the accused came in front of her house and asked her where her brother Mahendra is. Thereupon, she came outside and then both the accused asked as to whether they are withdrawing the case filed against the applicants or not and thereafter threatened the informant. It is then stated that accused No.1 Datta took out the khanjar from his waist and threatened to kill Mahendra and then he entered the house of the informant. As the informant and her mother protected Mahendra, the applicants could not see him. When the informant and her mother raised voice, the applicants fled away.

6. Taking into consideration the contents of the FIR, which are almost reflected in the statement of her mother, it can be seen that there were no insulting words alleged to have been used concerning the caste when the applicants alleged to have made conversation from outside the house and then when they came inside the house, there was absolutely no dialogue. Therefore,

the material on record does not attract the the offence under Section 3(1)(r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

7. It is to be noted that the weapon which is alleged to have been used, is the khanjar and for that purpose Section 4 of the Indian Arms Act has been invoked by the police. Section 4 prescribes for licence for acquisition, possession or carrying in that area of arms of specified description in certain cases. It prescribes that If the Central Government is of opinion that having regard to the circumstances prevailing in any area it is necessary or expedient in the public interest that the acquisition, possession or carrying of arms other than firearms should also be regulated, it may, by notification in the Official Gazette, direct that this section shall apply to the area specified in the notification and thereupon no person shall acquire, have in his possession or carry in that area arms of such class or description as may be specified in that notification unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder. Along with the charge-sheet, no such notification issued by the Central Government has been annexed. Under such circumstance, Section 4 punishable under Section 25 of the Indian Arms Act will not get attracted.

8. However, from the aforesaid narration of the incident by the informant, we are of the opinion that prima facie offences under Section 452, 504, 506 read with Section 34 of the Indian Penal Code are made out. Therefore, the Application deserves to be partly allowed. Hence the following order:-

ORDER

(I) The Application stands partly allowed.

(II) The offence vide Crime No.158 of 2023 and proceedings in Special Case No.67 of 2023 pending before the learned Special Judge under the Atrocities Act, Nanded are quashed and set aside to the extent of the offence punishable under Section 3(1)(r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 4 punishable under Section 25 of the Arms Act, as against applicant No.1 - Dattatrey s/o Sayanna Rajawar and applicant No.2 - Dnyaneshwar s/o Laxman Potgunde.

(III) We clarify that the charge-sheet would remain in respect of Section 452, 504, 506 read with Section 34 of the Indian Penal Code.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE