



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1002 OF 2019

- 1] Anil Dattu Bhujade
- 2] Dattu Laxamn Bhujade
- 3] Sunil Dattu Bhujade
- 4] Manda Dattu Bhujade
- 5] Popat Laxman Bhujade
- 6] Amol Popat Bhujade
- 7] Lahhubai Dattu Bhajade
- 8] Sanjay Laxman Bhujade

All R/o Apegaon, Tq. Kopargaon,
District – Ahmednagar

.. Applicants

Versus

- 1] The State of Maharashtra,
Through Police Inspector,
Kopargaon Police Station,
Tq. Kopargaon, Dist. Ahmednagar

- 2] Dattarya Tukaram Gore

.. Respondents

...
Advocate for applicants : Mr. Shailesh S. Chapalgaonkar
APP for the respondent – State : Mr. K.N. Lokhande
Advocate for respondent no. 2 : Mr. S.P. Nimbalkar h/f. Mr. P.S. Dighe
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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 4 MARCH 2024

ORDER (MANGESH S. PATIL, J.) :

By invoking the powers of this Court under section 482 of the Code of Criminal Procedure, the applicants are seeking quashment of crime no. I-21 of 2019 registered with Kopargaon Police Station for the offences punishable under section 143, 147, 148, 323, 324, 504, 506 of the Indian Penal Code and under section 3(2)(r),(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act

and under section 4, 25 of the Arms Act, consequent Chargesheet and Special Case No. 11 of 2019 pending before the Sessions Court, Kopergaon.

2. We have heard both the sides finally at the stage of admission.

3. Learned advocate for the applicants would take us through the papers and would submit that a civil dispute has been tried to be draped in the robes of criminal matter. The two families have been involved in several civil and criminal matters. Even complaints have been filed by the applicants against the respondent no. 2 and his family members. There is also a dispute as to which caste or tribe the respondent no. 2 belongs to. The father of the respondent no. 2 has obtained a certificate of his being Hindu Koli which is Other Backward Class, whereas the respondent no. 2 has been able to obtain a certificate of Mahadev Koli scheduled tribe. He would submit that In fact, the respondent no. 2 and his family members were the aggressors. A counter case was registered against them. It is only after the applicant no. 2 had lodged crime registered as crime no. 19 of 2019 that the present FIR has been lodged with a concocted version. No abuses were hurled on caste lines much less with an intention to insult.

4. It is only after the applicant no. 8 agreed to purchase the land from the respondent no.2's cousin, that the dispute started. The respondent no. 2 and his family members wanted to purchase the land but got annoyed when their cousin agreed to sell it to the applicants. The applicant no. 8 had to file Regular Civil Suit, seeking injunction against respondent no. 2 and his cousin. He has been asserting to be in possession of the disputed land and in order to compel the applicants to fall in line, that a false complaint has been lodged.

5. Per contra, the learned APP and the learned advocate for the respondent no. 2 would oppose the application. They would submit that admittedly, there is a dispute between the two families. Though the version of the applicants is different, there is nothing to dis-believe the version being narrated in the FIR. Specific utterances have been attributed. Since it is a matter of formation of an unlawful assembly and carrying out assault and when specific utterances have been alleged in the FIR making out ingredients for constituting the offence punishable under the Atrocities Act, the respondents cannot be dis-believed. There are statements of independent eye witnesses. Besides there are injury certificates of as many as four individuals. Though the injuries are simple, those would lend credence to the veracity of the allegations in the FIR. The prosecution deserves to be extended an opportunity to lead evidence to substantiate the allegations. It is not a

case of false implication. The matter is serious and the application be rejected.

6. The learned APP and the learned advocate for the respondent no. 2 would also submit that supplementary statement of the respondent no. 2 was recorded on 08-02-2019. He had expressly stated to be Hindu Mahadev Koli which is a scheduled tribe. There is a copy of the certificate annexed to the chargesheet issued by the competent authority. Merely because his father had obtained certificate of being Hindu Koli OBC and had filled in nomination in that category for a grampanchayat election, that could not come in the way of the prosecution, particularly when the respondent no. 2 possesses a certificate of being scheduled tribe.

7. We have considered the submissions of both the sides and perused the papers.

8. Admittedly, there seems to be a dispute between the two families. However, though the applicants' version is different in the FIR lodged by the applicant no. 8, it is about the incident of same time and place as is mentioned in the FIR sought to be quashed, meaning thereby that presence of the applicants at the scene of the offence stands corroborated albeit the version is different.

9. Though the father of the respondent no. 2 seems to have filled in nomination showing him to be Hindu Koli OBC, the respondent no. 2 a caste certificate which is of Mahadev Koli, his supplementary statement has been recorded which is part of the chargesheet. At this juncture, this should be sufficient to proceed on the premise that indeed the respondent no 2 belongs to a scheduled tribe and the applicants have been aware about it. Abuses having been hurled at him on the caste lines prima facie it is indicative that those were the utterances made with an intention to insult him.

10. Though it appears that the applicant no. 8 had agreed to purchase a piece of land from the cousin of the respondent no. 2 against whom he has filed a suit for perpetual injunction, as is being informed by the learned advocate for the applicants, he has not obtained any interim relief in the form of temporary injunction. Conspicuously, even the respondent no. 2 is defendant no. 2 in that Regular Civil Suit no. 144 of 2018.

11. There are injury certificates of as many as four individuals. Though the injuries are simple, the very fact that the applicants could assault these many persons is indicative of the fact that they must have arrived at the scene by forming an unlawful assembly with the common object of raising the dispute and assaulting the respondent no.2 and his family members.

12. Since it is a matter of crime by formation of an unlawful assembly and in furtherance of the common object some utterances have been attributed to any of them, even rest of the applicants would also be liable for the implication by virtue of section 149 of the Code of Criminal Procedure.

13. In our considered view, this is not a fit case where the extra-ordinary power of this Court under section 482 of the Code of Criminal Procedure can be exercised.

14. The application is rejected.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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