



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

37 CRIMINAL APPLICATION NO.1332 OF 2023

- 1 Vijay Vyankat Ingale,
Age 27 yrs., Occ. Education,
R/o Karajkheda,
Tq. & Dist. Osmanabad.
- 2 Laxman Vyankat Ingale,
Age 30 yrs., Occ. Service,
R/o as above.
- 3 Bhairu Machindra Ingale,
Age 40 yrs., Occ. Agri.,
R/o as above.
- 4 Vyankat Ram Ingale,
Age 65 yrs., Occ. Agri.,
R/o as above.
- 5 Khandu Yeshwant Chavan,
Age 40 yrs., Occ. Agri.,
R/o as above.
- 6 Pandu Mahadeo Ingale,
Age 21 yrs., Occ. Agri.,
R/o as above.
- 7 Balu Balbhim Ingale,
Age 45 yrs., Occ. Agri.,
R/o as above.
- 8 Tryambak Machindra Ingale,
Age 45 yrs., Occ. Agri.,
R/o as above.
- 9 Mahadeo Ram Ingale,
Age 70 yrs., Occ. Agri.,
R/o as above.

- 10 Amit Sahadeo Ingale,
Age 35 yrs., Occ. Agri.,
R/o as above.

... **Applicants**

... **Versus** ...

- 1 The State of Maharashtra
Through Police Station,
Bembli, Tq. & Dist. Osmanabad.
- 2 The Sub Divisional Police Officer,
S.D.P.O. Office, Osmanabad.
- 3 Dilip Kashinath Nagtile,
Age 30 yrs., Occ. Labour,
R/o Karajkheda,
Tq. & Dist. Osmanabad.

... **Respondents**

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Mr. G.J. Kore, Advocate for applicants

Mrs. Priya R. Bharaswadkar, APP for respondent Nos.1 and 2

Mr. S.B. Ghute, Advocate for respondent No.3

...

**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 11th NOVEMBER, 2024

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

- 1 Present application has been filed invoking the inherent powers

of this Court under Section 482 of the Code of Criminal Procedure for quashing First Information Report vide Crime No.70/2023 dated 18.02.2023 registered with Police Station, Bembli, Tq. & Dist. Osmanabad initially and then for quashing the charge sheet i.e. proceedings in Special Case No.37/2023 pending before learned Special Judge (under the Atrocities Act) / Principal District and Sessions Judge, Osmanabad, for the offence punishable under Sections 324, 504, 506, 143, 147 read with Section 149 of the Indian Penal Code, 1860 and under Sections 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2 Heard learned Advocate Mr. G.J. Kore for applicants, learned APP Mrs. Priya R. Bharaswadkar for respondent Nos.1 and 2 and learned Advocate Mr. S.B. Ghute for respondent No.3.

3 Learned Advocate for applicants has taken us through the First Information Report and other contents of charge sheet and submits that witnesses Nitesh Dhondiram Chavan and Dhondiram Shankarrao Chavan have dispute with accused Nos.1 and 2 i.e. present applicant Nos.1 and 2 and by taking advantage of the caste of informant, who is stated to be their servant, have lodged the report. Informant – respondent No.3 had not

disclosed the presence of Nitesh and Dhondiram at the time of First Information Report on 18.02.2023, however, their presence has been disclosed by way of supplementary statement on 20.02.2023. The statements of Dhondiram and Nitesh have also been recorded on 20.02.2023. There was absolutely no reason for the applicants to assault or abuse the informant in the name of caste, as they had no dispute with him. There is no such evidence collected by the Investigating Officer which can worth taking cognizance under the Atrocities Act. So also, as regards the other Sections under the Indian Penal Code the presence of other accused persons i.e. other applicants is just to show the seriousness in the offence. Civil dispute is already pending in respect of agricultural land, in which the alleged incident is stated to have taken place. Therefore, it would be unjust to ask the applicants to face the trial.

4 Learned APP for respondent Nos.1 and 2 and learned Advocate for respondent No.3 objected to the application and submitted that there was injunction granted against applicant Nos.1 and 2 by the Civil Court in respect of agricultural land, still, they were disturbing the possession. On the day of incident, when the informant and two witnesses i.e. Nitesh and Dhondiram had gone to the field, present applicants, who are not the members of Scheduled Caste or Scheduled Tribe, abused the informant in the name of

caste and then assaulted him by stick and gave him threat. Taking into consideration the contents of First Information Report and statements of witnesses under Section 161 and 164 of the Code of Criminal Procedure, no case is made out for quashing the First Information Report as well as the proceedings.

5 Perusal of First Information Report which was lodged on 18.02.2023 would show that the incident was alleged to have taken place at 10.00 a.m. on 18.02.2023 when informant was watering the sugarcane crop and it is then stated that around 2.00 p.m. he was obstructed by accused persons. He told them that he has taken advance amount from the owner and, therefore, he should be allowed to do the work. The accused persons were not in a mood to listen, then accused Vijay Vyankat Ingale assaulted him by means of stick on his head causing bleeding injury. After he fell down, he was assaulted by all with fists and kicks. Vijay abused, “म्हारग्या देडग्या, तु तुझ्या पायरीने रहा” (“Mhargya dedgya, you live as per your level”). Thereafter, the threat was given that he should not come to the field again, otherwise he would not be let alive. He then says that when the neighbouring farmers Satish Mali and Vinod Mali saw that informant was being assaulted, they came near the informant, as a result of which all the accused left the place. Informant then went to Police Station and as he was referred to hospital he

went to hospital. Thus, the said First Information Report had not disclosed the presence of land owner Nitesh Chavan and his father Dhondiram Chavan. Informant says that he has been engaged as yearly servant for Rs.1,11,000/- on the basis of oral contract. He says that since last 4-5 years he is serving with Nitesh. Interestingly, in his First Information Report as well as supplementary statement recorded on 20.02.2023, he has not given the field number, but he was certain in saying that he has been appointed on the land as servant by the owner of the land Nitesh Chavan. When statements of Nitesh and Dhondiram have been recorded on 20.02.2023, they claimed that they were present when the incident took place. According to them, Nitesh has taken sugarcane crop in the land, which is stated to be totally admeasuring 24 Acres belonging to Dhondiram and 65 R has gone to the share of Nitesh. He then says that in respect of same land his grandson Shankar Mahesh Chavan has filed suit against accused Vyankat, in which the Taluka Court has given injunction and it has been confirmed by this Court. Still Vyankat is claiming ownership over the land of Nitesh. In the charge sheet the copy of the suit filed by Shankar Mahesh Chavan against accused Vyankat Rama Ingale and Mahadeo Rama Ingale has been collected. Shankar appears to be minor and he has filed suit through next friend Sharad Dhondiram Chavan. If we consider the suit property, it appears to be 01 H 25 R purchased land through two separate sale deeds from Gat No.77 situated in

village Karajkheda and the boundaries would show that towards the North side there is land of Nitesh Dhondiram Chavan. Therefore, it appears that the suit property is different and not owned by Nitesh Chavan, in respect of which the injunction has been granted by the Trial Court, then confirmed by this Court. Those two witnesses Nitesh and Dhondiram want to encash the said orders contending that it is in respect of the property which is owned by Nitesh, which is not a fact, because it is a purchased land in the name of minor Shankar.

6 When there is already dispute pending, may be in respect of different land, then introducing the informant in the dispute and taking advantage of his caste appears to be the motto. The improvement is obvious when in the First Information Report there was absolutely no other person near the informant who could have heard the alleged abuses in the name of caste and then subsequently they have been introduced.

7 Another fact to be noted is that though the supplementary statement of the informant was taken on 20.02.2023 and the statements of other two witnesses have been taken on the same day under Section 161 of the Code of Criminal Procedure, statements of those three witnesses have been taken by Judicial Magistrate First Class, Osmanabad (Court No.4) under

Section 164 of the Code of Criminal Procedure on 27.02.2023. In his statement the informant again has not disclosed presence of Nitesh and Dhondiram. He rather says that the neighbouring witnesses Satish Mali and Vinod Mali had not come for his rescue due to fear. Statements of witnesses Nitesh and Dhondiram under Section 164 of the Code of Criminal Procedure have further deviation. Witness Nitesh says that he had gone along with informant on motorcycle. Thereby he rules out the presence of his father. But Dhondiram says that he was already present in the field and went to the spot after hearing the dispute. All these deviations improvement lead us to the conclusion that the offence under the Atrocities Act is made with mala fide intention, however, it is to be noted that the statement of Dnyaneshwar Garad would show that he had seen the accused persons assaulting the informant. Further, it is supported by the medical evidence. It shows that there was a contusion on frontals bone, 2 x 1 c.m. in size, which is stated to be simple and with weapon. Therefore, at this stage, we are of the opinion that offence under the Atrocities Act is not made out, taking into consideration the contents of the First Information Report and charge sheet. The application deserves to be partly allowed. Hence, we proceed to pass the following order.

ORDER

1 Criminal Application stands partly allowed.

2 The First Information Report vide Crime No.70/2023 dated
18.02.2023 registered with Police Station, Bembli, Tq. & Dist. Osmanabad
and proceedings in Special Case No.37/2023 pending before learned Special
Judge (under the Atrocities Act) / Principal District and Sessions Judge,
Osmanabad, for the offence punishable under Sections 324, 504, 506, 143,
147 read with Section 149 of the Indian Penal Code, 1860 and under
Sections 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and the Scheduled
Tribes (Prevention of Atrocities) Act, 1989 stand quashed and set aside to the
extent of offence punishable under Sections 3(1)(r)(s), 3(2)(va) of the
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act,
1989 only as against applicants.

3 We clarify that the matter to proceed in respect of other Sections.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)