



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Criminal Writ Petition No. 993 / 2023

1. Sandip Bhagwan Dankh
 2. Rameshwar Bhagwan Dankh
 3. Bhagwan Pandharinath Dankh
 4. Geetabai Bhagwan Dankh
- All R/o Pathrud Tq. And Dist. Jalna.

...Petitioners

Versus

1. The State of Maharashtra
Through Police Inspector
Shevli Police Station,
Dist. Jalna.
2. Kamalbai Karbhari Maghade

...Respondents

...

Advocate for Petitioners : Mr. Suvidh S. Kulkarni

APP for the Respondent No.1/State : Ms. S.S. Joshi

Advocate for Respondent No.2 : Mr. Sanjay E. Sarode

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**
DATE : 5 MARCH 2024

ORAL JUDGMENT [Per Shailesh P. Brahme, J.] :

. Rule. Rule is made returnable forthwith. Heard finally
with the consent of the parties.

2. The petitioners are seeking quashment of FIR bearing C.R. No.75/2023 dated 01.05.2023 registered with Shevli Police Station, Taluka and District Jalna for the offences punishable under Sections 324, 323, 504, 506, 143, 147, 148 of the Indian Penal Code read with Section 3(1)(r), 3(1)(s), 3(1)(u) of the Prevention of Atrocities (S.C. & S.T.) Act, 1989, consequential charge-sheet and Special Criminal Case no.202/2023 pending before the learned Special Judge at Jalna.

3. Respondent no.2 is the informant who claims to be belonging to scheduled caste. On 01.05.2023, she lodged report with the concerned police station against the petitioners. It is alleged that on 26.04.2023 when she was in her field situated at Village Pathrud alongwith her husband, the petitioners were in the adjoining field. There was altercation between them. The informant and her husband were beaten by the petitioners and they were abused on their caste. Informant's husband sustained injuries.

4. The offence registered at the instance of respondent no.2 was investigated and charge-sheet was filed which culminated in SCC No.202/2023 which is pending before Special Judge Jalna.

5. The petitioners have produced cross-complaint filed by petitioner no.2-Rameshwar against informant and others on 03.05.2023 bearing C.R. No.78/2023, alleging that on 26.04.2023 informant and her family members had beaten him and snatched golden bracelet and cash of Rs.20,000/-. He was threatened of filing case under provisions of Prevention of Atrocities Act. Petitioners have also produced on record the documents to show that petitioner no.1/Sandip and petitioner no.4/Geetabai were not present on 26.04.2023 at the spot of the incident, but they were at Rangareddy, Secunderabad (State of Telangana) alongwith his brother Sandip who happens to be Sepoy in CRPF.

6. Learned Counsel for the petitioners Mr. Kulkarni, submits that the incident was not within a public view. They are falsely implicated. Petitioner no.1 and 3 were not present at the relevant time. There was delay in lodging complaint. Due to the enmity, the petitioners have been implicated. The witnesses whose statements are recorded during the course of investigation are interested ones. Out of them, Karbhari and Vikram are accused in complaint registered at the instance of Rameshwar.

7. Learned Counsel further submits that no case is made out and it would be an abuse of process of law. For that purpose, he seeks to rely on the judgment in the matter of **Ramesh Chandra Vaishya Vs. State of Uttar Pradesh and Ors.**, in Criminal Appeal No.1617/2023.

8. Learned APP and learned Counsel for the respondent no.2 would repel the submissions of the petitioners. The respondent no.2 has filed affidavit-in-reply to oppose the contentions of the petitioners. They would submit that the incident took place in the open agricultural field which was definitely within public view and it was witnessed by the independent witnesses. There is cogent material on record to proceed against the petitioners. There are eye-witnesses to the incident. Learned APP would rely on the judgment in the matter of **Hitesh Verma Vs. State of Uttarakhand and Anr.**, (2020) 10 SCC 710, to show that place in question was within public view.

9. We have considered rival submissions of the parties and we have gone through the papers of investigation. It reveals from the record that the petitioners, informant and her family

members are occupants of adjoining agricultural fields. They are acquainted with each other. There appears to be some dispute over the agricultural land. Both the parties have filed cross-complaints of the incident occurred on 26.04.2023 albeit the timings are different.

10. The agricultural land gut no.408 situated at Pathrud, where the incident took place, is an open field. We have ascertained the same from the papers of investigation especially the spot panchnama. The incident occurred in broad daylight at 02:30 pm. and it was witnessed by Vikram Babu Pawar and Bhanudas Bhagoji Gadekar. Paragraph no. 14 of the judgment of the Supreme Court in the matter of Hitesh Verma (supra), it has been explained what would be the place within public view. We have no hesitation to hold that the incident occurred in a place within public view.

11. We have considered FIR and the statements of the witnesses carefully. We find that petitioner no.2 and 4 hurled abuses in the name of the caste. The informant and her husband belong to scheduled caste. We are of the considered view that

offence under provision of Section 3(1)(r) and (s) can be made out. The witnesses further corroborate that there was a fight and altercation. We have seen the injury certificate of Karbhari Sitaram Mhagade which can be attributed to petitioner no.1/Sandip. We find that there is sufficient material on record to proceed against petitioners under the provisions of Indian Penal Code as well.

12. Learned Counsel for the petitioners vehemently submits that there is enmity between the parties. There is already cross-complaint filed by petitioner no.2/Rameshwar. We have gone through the cross-complaint which is registered on 03.05.2023 bearing C.R. No.78/2023. Impugned FIR is registered on 01.05.2023. The enmity between the parties is apparent. Couple of witnesses are common. The deposition of the witnesses cannot be undermined at this stage. Besides that there is independent witness Bhanudas Bhagoji Gadekar to the incident in question. We are of the considered view that full-fledged trial is required to ascertain the truth.

13. Learned Counsel for the petitioners has referred to the judgment of Supreme Court in the matter of Ramesh Chandra

Vaishya (supra). Our attention is invited to paragraph no.17 to buttress the submission that the incident in question in the present matter, is not within public view. However, the judgment is distinguishable on material particulars. In the case in hand, incident occurred in broad daylight in open agricultural field which was not the case before the Supreme Court. The judgment would not enure to the benefit of the petitioners.

14. For the reasons stated above, we do not find that the case is made out as per the parameters laid down by the Supreme Court in the matter of **State of Haryana and Ors. Vs. Bhajan Lal and Ors.**, AIR 1992 SC 604, to cause any interference in criminal proceeding. We, therefore dismiss writ petition. Rule is discharged.

[**SHAILESH P. BRAHME, J.**]

[**MANGESH S. PATIL, J.**]