

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL REVISION APPLICATION NO. 8 OF 2024**

|                                |               |
|--------------------------------|---------------|
| Hamida Kamruddin Teli And Anr. | ...Applicants |
| Versus                         |               |
| State Of Maharashtra           | ...Respondent |

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Ms. Anusha Amin, Advocate for the Applicants.

Mr. Arfan Sait, APP for Respondent-State.

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**CORAM : PRAKASH D. NAIK, J.**

**DATE : 11<sup>th</sup> JANUARY, 2024.**

**P.C.:**

1. The Applicants are charged for the offences under Sections 353, 504 and 506 of Indian Penal Code (for short 'IPC') vide First information report (for short 'FIR') dated 21<sup>st</sup> March, 2020 registered with Mumbra Police Station.

2. The complainant is a Assistant Engineer working with Thane Municipal Corporation. It is alleged that on 19<sup>th</sup> March, 2020 he had visited the place of incident for discharging his duty of carrying out construction the purpose of laying lines by using poclain machine. The Accused came to the spot and charged at the complainant. One of them took the key of poclain machine and switched off the machine. The Accused abused and threatened complainant and restrained complainant and others from

discharging their duty.

3. The Applicants preferred an application for discharge before the trial Court. The Application has been rejected vide Order dated 16<sup>th</sup> October, 2023.

4. Learned Advocate for the Applicants submitted that the offence under Section 353 of IPC is not made out. Except verbal abuses, no role of using any criminal force is attributed to the Applicants. Since, the alleged act does not involve criminal force the offence under Section 353 of IPC is not attracted. The complainant was not discharging public duty on the date of incident. Reliance is placed on the decision of this Court in ***Amer Khan V/s. State of Maharashtra and Others***<sup>1</sup>

5. Learned APP submitted that at the stage of discharge the Court is required to see if *prima facie* case is made out to frame charge. It cannot be said that the Accused did not use criminal force.

6. The FIR was registered for offences under Sections 353, 504, 506 r/w 34 of IPC. At the stage of discharge the Court is not required to appreciate the evidence. If the charge is groundless Accused can be discharged. The prosecution case is that the

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complainant is a public servant. He was performing his duty at the time of incident. The contention of the Applicants that the complainant was not discharging his duty on the date of incident cannot be accepted at this stage. The Accused No.1 had allegedly rushed towards the public servant. The Accused removed the key of poelain machine and obstructed public servant from discharging his duty. The Accused had abused and threatened the complainant. It is not possible to accept at this stage that there was no criminal force used by Accused.

### **ORDER**

- i. The Revision Application is rejected.
- ii. It is clarified that the observations made in this Order are *prima facie* for considering prayer for discharge and the trial Court shall not be influenced by the same during the trial.
- iii. Application is disposed off.

**(PRAKASH D. NAIK, J.)**