

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

CRIMINAL WRIT PETITION NO. 3879 OF 2024

Neema Sanjay Rangari & Anr.

..Petitioners

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Ashwin Thool i/b. Archismati Chandramore for Petitioners.
Smt. M. H. Mhatre, APP for State/Respondent.

Mr. Rajendra Shirodkar, Sr. Advocate a/w. Nihar S. Ghag a/w. Anil

Y. Bansode a/w. Pradeep Shirsat for Respondent No.2.

**CORAM : SARANG V. KOTWAL &
DR. NEELA GOKHALE, JJ.**

DATE : 2 DECEMBER 2024

PC :

1. The Petitioners have approached this Court for quashing of the F.I.R. registered vide the C.R.No.385 of 2024 registered at Dadar police station on 17.07.2024, under sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'said Act') and under sections 115(2), 3(5) and 356 of the Bhartiya

Nyaya Sanhita, 2023 (for short “BNS”).

2. Heard Mr. Ashwin Thool, learned counsel for the petitioners, Smt. Mhatre, learned APP for the State and Mr. Rajendra Shirodkar, learned Senior counsel for the Respondent No.2.

3. The F.I.R. is lodged by the first informant ‘SD’. He has stated that, he was the President of Maharashtra Pradesh Bahujan Samaj Party. Their party’s executive committee had a meeting on 17.07.2024 at Dadar. The meeting was arranged to announce the name of the new President for Maharashtra and the new committee members. The meeting was to be attended by Mr. ‘G’, M.P. Rajyasabha. He came at around 12:00p.m. Both the petitioners attended that meeting. They were standing in the queue to welcome Mr. ‘G’. When the Petitioner No.1 came in front of Mr. ‘G’, she slapped him. The other persons who were present at that place intervened. At that time, both the petitioners uttered derogatory words with reference to the two castes by saying that, the party was made up of the people from those two scheduled

castes. It is further mentioned in the F.I.R. that, both of them did this act because they did not get the ticket to contest for Loksabha for that party; and they were angry with Mr. 'G'. On these allegations, the F.I.R. was lodged.

4. Learned counsel for the petitioners submitted that the F.I.R. is not lodged by Mr. 'G', who allegedly was slapped by the Petitioner No.1. The dispute was because the petitioners were not given tickets to contest the parliamentary election. The utterance was not made by any of the petitioners. The petitioner No.1 has lodged her F.I.R. vide the C.R.No.722 of 2024 on 22.07.2024 at Bhadara police station in respect of the same incident dated 17.07.2024. She had alleged in that F.I.R. that, when she had gone on the stage, 'SD' had demanded Rs.5 lakhs and one 'SB' had abused her and she was pushed from the stage. That F.I.R. is lodged at Bhandara and not at Dadar, Mumbai.

5. Learned counsel for the petitioners also referred to an N.C. lodged at Dadar police station on 17.07.2024 in respect of the same incident. He submitted that the F.I.R. against the petitioners

is a result of political vendetta and it is lodged with malafide intentions. Learned counsel for the petitioners fairly stated that Mr. 'G' belongs to a scheduled caste. The statement of Mr. 'G' itself mentions that he belongs to a scheduled caste.

6. Learned counsel for the petitioners relied on the Judgment of the Hon'ble Supreme Court in the case of Hitesh Verma Vs. The State of Uttarakhand and Ors.; dated 05.11.2020 passed in Criminal Appeal No.707 of 2020. He, in particular, relied on paragraphs 15 and 16 of the said judgment; which read thus:

“15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh, it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.

16. There is a dispute about the possession of the land which is the subject matter of civil dispute between the parties as per Respondent No. 2 herself. Due to dispute,

Appellant and others were not permitting Respondent No. 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the Civil Court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.”

7. Learned counsel also relied on another Judgment of the Hon’ble Supreme Court in the case of Shajan Skaria Vs. The State of Kerala and Ors.; dated 23.08.2024 passed in Criminal Appeal No.2622 of 2024. In particular, he relied on paragraphs 49, 50, 60 and 61; which read thus:

“49. In our opinion, the aforesaid is the only test that the court should apply, when an Accused prays for anticipatory bail in connection with any offence alleged to have been committed under the provisions of the Act, 1989. In a given case, an Accused may argue that although the allegations levelled in the FIR or the complaint do disclose the commission of an offence under the Act, 1989, yet the FIR or the complaint being palpably false on account of political or private vendetta, the court should consider the plea for grant of anticipatory bail despite the specific bar of Section 18 of the Act, 1989. However, if the Accused puts forward the case of malicious prosecution on account of political or private vendetta then the same can be considered only by the High Court in exercise of its inherent powers Under Section 482 of the Code or in exercise of its extraordinary jurisdiction Under Article 226 of the Constitution. However, powers Under Section 438 of the Code of Criminal Procedure cannot be exercised once

the contents of the complaint/FIR disclose a prima facie case. In other words, if all the ingredients necessary for constituting the offence are borne out from the complaint, then the remedy of anticipatory bail becomes unavailable to the Accused.

50. The duty to determine prima facie existence of the case is cast upon the courts with a view to ensure that no unnecessary humiliation is caused to the Accused. The courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the complaint/FIR in fact discloses the essential ingredients required to constitute an offence under the Act, 1989. It is expected of the courts to apply their judicial mind to determine whether the allegations levelled in the complaint, on a plain reading, satisfy the ingredients constituting the alleged offence. Such application of judicial mind should be independent and without being influenced by the provisions figuring in the complaint/FIR. The aforesaid role of the courts assumes even more importance when a prima facie finding on the case has the effect of precluding the Accused person from seeking anticipatory bail, which is an important concomitant of personal liberty of the individual.

60. Thus, the dictum as laid aforesaid is that the offence Under Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is

attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status.

a. Meaning of the expression "intent to humiliate" appearing in Section 3(1)(r) of the Act, 1989.

61. The words "with intent to humiliate" as they appear in the text of Section 3(1)(r) of the Act, 1989 are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. Not every intentional insult or intimidation of a member of a SC/ST community will result into a feeling of caste-based humiliation. It is only in those cases where the intentional insult or intimidation takes place either due to the prevailing practice of untouchability or to reinforce the historically entrenched ideas like the superiority of the "upper castes" over the "lower castes/untouchables", the notions of 'purity' and 'pollution', etc. that it could be said to be an insult or intimidation of the type envisaged by the Act, 1989."

8. Learned senior Counsel for the Respondent No.2, on the other hand, submitted that the offence is clearly made out. The ingredients of the offences are present in the F.I.R. itself.

9. Learned APP produced the investigation papers before us. She submitted that, there are many eye witnesses to the

incident and the CCTV footage has captured the entire incident. Therefore, the offences are made out.

10. We have considered these submissions. The F.I.R. referred to by the petitioners which was lodged at Bhandara police station vide the C.R.No.722 of 2024 does not make any reference to slapping of Mr. 'G' which is the subject matter of the C.R.No.385 of 2024 lodged at Dadar police station. There are allegations against 'SD' and 'SB' regarding demand of Rs.5 lakhs. That F.I.R. is lodged at Bhandara police station. The Petitioner No.1 had approached Dadar police station and had lodged her N.C. on 17.07.2024. At that time, there was no allegation of demand of Rs.5 lakhs as she had made in her F.I.R. The allegations are about abusing and assaulting. The N.C. does not make any reference to Mr. 'G'.

11. As far as the contention, that the F.I.R. is lodged because of political vendetta is concerned; there is sufficient material collected during investigation to indicate that the incident did take place. There are no false allegations against the petitioners due to

political vendetta. Actual slapping of Mr. 'G' is an offence U/s.3(2)(va) of the said Act. Section 3(2)(va) of the said Act reads thus:-

“3(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe –
3(2)(va) : commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;”

The schedule annexed to the said Act refers to Section 323 of the I.P.C. Therefore, though the investigating agency has not applied that particular section in the F.I.R., the material collected during the investigation clearly make out existence of ingredients of that section.

12. Apart from that, the incident had taken place in the public place. There was a reference to particular two scheduled castes and utterance was in derogation of those two castes. This was immediately following the main incident of assaulting Mr. 'G'. Therefore, the intention of the petitioners is clearly made out in the F.I.R. The incident was witnessed by many other witnesses viz.

Mangesh Thakre, Santosh Shinde, Yogesh Lanjewar, Mohan Raikwar, Pravin Dhotre, Rajesh Kamble and Santosh Adsule. All these statements, in fact, show that the utterances were highly humiliating. Apart from that, there is panchanama of seizure of CCTV footage. The incident recorded in the CCTV camera is described in that panchanama. It supports the version in the F.I.R. and of the eye witnesses. The utterance also targets those particular castes. Thus, there is overwhelming circumstances and material against the present petitioners. The two Judgments cited by the learned counsel for the petitioners do not support his contention in the background of the material against the petitioners. As far as, the Judgment in the case of Hitesh Verma (supra) is concerned, it dealt with a question of public view. As mentioned earlier, there are many eye witnesses who had seen the incident and the members of the scheduled caste were humiliated in public. The intention is clear. The reliance on the case of Shajan Skaria (supra) is also misplaced because, it is not a case of malicious prosecution or registration of F.I.R. out of political or private vendetta. There is no justification for slapping of a member

of parliament belonging to a scheduled caste, in public view and utterance of those derogatory words. The offences under the said Act are clearly made out. No case for quashing of the F.I.R. is made out.

13. The writ petition is dismissed.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)