



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 217 OF 2024

Madhuri D/o Subhash Patil (Before marriage)
Madhuri W/o Dharmesh Vaghjee
(After Marriage)
Age 47 years, Occ. Household,
R/o Pllot No.5, Maitrey Bangla, Nasik,
District Nasik

...Petitioner

// VERSUS //

1. The State of Maharashtra,
through its Police Station Officer,
Police Station Vani, District Yavatmal
2. Nisha Ramesh Gawai,
Age 34 years, Occ. Household
R/o Pragati Nagar, Wani, District Yavatmal
445304

... Respondents

Ms. Angha Pedgaonkar (through VC) for the petitioner.
Shri Nikhil Joshi, APP for the respondent no.1/State.
Ms. Kirti Deshpande, Advocate for the respondent no.2.

**CORAM : SMT. VIBHA KANKANWADI, AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATED : 22nd JULY, 2024.

ORAL JUDGMENT : [PER : SMT. VIBHA KANKANWADI, J.]

Rule. Rule made returnable forthwith. Heard finally by
consent of the parties.

2. The present petition has been filed invoking constitutional powers of this Court under Article 226 of the Constitution of India for quashing the FIR vide Cr.No. 678 of 2023 filed with Wani Police Station, District Yavatmal on 10th July, 2023 for the offence punishable under Sections 294, 500, 507, 509 of the Indian Penal Code, Section 67 of the Information Technology Act and Sections 3(1)(r) and 3(2)(va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to “Atrocities Act”).

3. Heard Ms. Angha Pedgaonkar, learned advocate for the applicant through Video Conferencing, Shri Nikhil Joshi learned Additional Public Prosecutor for the respondent no.1/State and Ms. Kirti Deshpande, learned Advocate appointed to represent the respondent no.2.

4. Learned advocate for the petitioner vehemently submitted that the First Information Report was lodged for the offence punishable under Sections 294 and 507 of Indian Penal Code and Section 67 of the Information Technology Act. However, after taking the Court through the contents of the FIR, it was submitted that FIR has been filed with malafide intention. In fact, the petitioner had also lodged the complaint with Gangapur Police Station on 8th July, 2023. The petitioner came into contact with the respondent no.2 through a person and the respondent no.2 was introduced as a business woman, who makes soaps at

home. The petitioner runs the channel on 'You Tube' and therefore, she called the respondent no.2 for the interview. The respondent no.2 disclosed that she wants some funds for statue of Dr. Babasaheb Ambedkar and therefore, the petitioner and her subscriber can contribute for the same. Accordingly, the amount was given by the petitioner from time to time. Around Rs.50,000/- were contributed but, there were no signs of installing of the statute of Dr. Babasaheb Ambedkar for about six months. Then the petitioner asked the respondent no.2 about the documents and at that time she tried to avoid and therefore the petitioner made a complaint on cyber crime online portal on 8th August, 2022. The respondent no.2 got frightened and then admitted that she has given the entire amount to Vanchit Bahujan Aghadi, Wani and the statue would be installed on 16th January, 2023 and it would be then attended by Shri Prakash Ambedkar. However, the respondent no.2 started abusing and defaming the petitioner. On the basis of said complaint, FIR vide crime no. 9 of 2024 came to be registered with Gangapur Police Station on 10th January, 2024. The present FIR is nothing but a counter blast. In fact the complaint was lodged by the present petitioner with the police station on 8th July, 2023 itself but, actual registration has been done by the police on 10th January, 2024. No such incident or offence, now alleged by the respondent no.2, has taken place and therefore when the FIR has been lodged to take revenge, it would be unjust to ask the applicant to face the proceedings.

5. Per contra, learned Additional Public Prosecutor after relying on the reply by Shri Ganesh Kindre, Sub-Divisional Police Officer, Wani, District Yavatmal submits that report was lodged by the respondent no.2 on 10th July, 2023 stating that she has watched the You Tube Channel, which is run by the petitioner in the name as 'Madhuri Sakhi Manch', it was stated that said channel is for women empowerment. However some woman was defamed on the live video and the petitioner has also another channel by name 'Ravan Channel' and the said forum is used for defaming. The investigation is still going on as regards the owner of the channel. The victim i.e. respondent no.2 belongs to reserved category, who is said to have been defamed on You Tube channel and therefore, this is not a fit case where the powers under Section 482 of the Code of Criminal Procedure are required to be exercised.

6. Taking into consideration the facts above stated, it is to be noted that though the petitioner appears to have filed some complaint on 8th July, 2023 against Kajal Gaikwad @ Nisha Gawai i.e. respondent no.2 yet the said complaint has been registered only on 10th January, 2024 and the present FIR is lodged on 10th July, 2023. Now whether it is a counter blast or not cannot be gone into by this Court and further the investigation is still going on. Social media is not for defaming anybody by giving abuse. If there is misuse of the platform amounting to the offence then the investigation should progress. We do not find it to be a fit case where we should exercise our constitutional powers under Section

482 of the Code of Criminal Procedure to quash and set aside the FIR.
Hence, we pass the following order.

- i. The writ petition stands rejected.
- ii. Rule is discharged.

[MRS. VRUSHALI V. JOSHI, J.] [SMT. VIBHA KANKANWADI, J.]