



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

Criminal Application (APL) No.862/2024

Sujaoddin @ Sonu Taheroddin Khatib,
aged about 38 years, Occ.-Business,
R/o.Kazipura, Umarkhed, Tq. Umarkhed,
Dist. Yavatmal.

.... Applicant.

Versus

1. State of Maharashtra,
through Police Station Officer,
P.S. Umarkhed, District Yavatmal.

2. Namdeo Jairamji Sasane,
aged about 52, Occ.- Politician,
R/o.-Nath Nagar, Umarkhed, Dist. Yavatmal.

.... Non-applicants.

Mr. P.S. Chawhan, Advocate for the applicant.

Mr. A.B. Badar, APP for State.

CORAM : Smt. Vibha Kankanwadi & Mrs. Vrushali V. Joshi, JJ

Date : 12-06-2024.

J u d g m e n t (Per Smt. Vibha Kankanwadi, J.)

The present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') for quashing and setting aside the First Information Report (FIR) bearing Crime No.0839/2023 registered with Umarkhed Police Station, District Yavatmal on 31-12-2023 for the offences punishable under Sections 153, 336, 506 read with Section 34 of the Indian Penal Code (for short, "IPC") and Sections 3(1)(r) and 3(1)(s) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'Act of 1989').

2. Heard learned Advocate appearing for the applicant and learned Additional Public Prosecutor for non-applicant no.1. It is not even necessary to issue notice to non-applicant no.2.

3. It has been vehemently submitted on behalf of the applicant that the applicant is the Vice-President of political party of Umarkhed and the non-applicant no.2 is a Member of Legislative Assembly from Umarkhed Constituency from another political party. They are the political opposition leaders/members and there is political rivalry. It is alleged that the FIR lodged by the applicant is the politically motivated. In fact earlier to the FIR, another person had given intimation about the same facts and a non-cognizable offence was registered. However, when non-applicant no.2 went to Police Station on the basis of same facts cognizable offence has been registered. This shows that the non-applicant no.2 has used his power as he belongs to the ruling party. Even the Police Authorities were present when the alleged incident took place and two other like FIRs have been registered. Further, if we consider the contents of the impugned FIR, it only mentions the name of the caste and it is well settled position of law that mentioning one's caste will not *ipso facto* attract the

insult. As the FIR is politically motivated, it deserves to be quashed and set aside.

4. It is a fact that a non-cognizable offence appears to have been recorded first, but it is in respect of narration by another person. As regards the provisions of the Act of 1989 are concerned, it depends upon the person as to whether he, being the member of a particular caste, felt insulted or not. Therefore, it is premature to hold that no such incident had taken place. Further it is said that even the Police Authorities were present at the place, but again it depends on at what distance the Police was standing, whether the said distance was sufficient to hear the conversation. Further mentioning of the caste in a sarcastic way will not absolve the person who is not the member of either Scheduled Caste or Scheduled Tribe. It depends upon the evidence or proof that is collected. No doubt, it appears that the applicant and the non-applicant no.2 are from different political parties, but it would be too premature to hold that the FIR is politically motivated. It is to be noted that the Police Authorities have also registered FIR vide Crime No.0836/2023 which is under Sections 143, 147, 148, 149, 338, 353 and 135 of the IPC. The facts emerging are that a wedding procession was taken out around 7.00 pm on 30-12-2023 and suddenly there was pelting of stones by some persons. Respondent no.2 in the FIR states that he had gone thereto to calm down the situation, but then the present applicant intervened and insulted him. In the FIR lodged

by the Police it is stated that, pelting of stones started when the procession was proceeding from the road in front of 'Dargah' and the song that was played was in the name of 'Lord Shri Ram' and that it triggered dispute between two communities i.e. Hindu and Muslim. When such kind of background is emerging, this cannot be a fit case, where we can exercise our inherent powers to quash and set aside the FIR.

5. There is no merit in the present application, hence, it deserves to be dismissed at the threshold. Accordingly, it is dismissed.

(Mrs. Vrushali V. Joshi, J.)

(Smt. Vibha Kankanwadi, J.)