



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.318 OF 2024

- 1) Sachin Abasaheb Bhoge,
Age-30 years, Occu:Private Service,
R/o-Kharwandi, Khalwadi,
Taluka-Newasa, District-Ahmednagar,
- 2) Shubham @ Bunty Rohidas @ Ravindra
Karpe, Age-27 years, Occu:Private Service,
R/o-Kharwandi, Khalwadi,
Taluka-Newasa, District-Ahmednagar,
- 3) Prashant Machindra Kurhe,
Age-20 years, Occu:Private Service,
R/o-Kharwandi, Taluka-Newasa,
District-Ahmednagar.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through the Investigating Officer,
Shani Shingnapur Police Station,
Taluka-Newasa, District-Ahmednagar,
- 2) The Superintendent of Police,
Ahmednagar,
State Highway 60, Near DSP Chowk,
Mukundnagar, Ahmednagar,
- 3) Pratik Balasaheb Adhav,
Age-21 years, Occu:Education,
R/o-Kharwandi, Taluka-Newasa,
District-Ahmednagar.

...RESPONDENTS

...
Mr. Yogesh R. Neb Advocate for Applicants.
Mr. S.A. Gaikwad, A.P.P. for Respondent Nos.1 and 2.
Mr. Niranjana Dhake Advocate for Respondent
No.3 (Appointed).
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 8th JULY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashing the proceedings in Special Case No.246 of 2023, pending before the learned Special Judge under the S.C. & S.T. Act, Newasa, District-Ahmednagar, arising out of the First Information Report (for short "the FIR") vide Crime No. 78 of 2023 registered with Shani Shingnapur Police Station, Taluka Newasa, District-Ahmednagar on 24th April 2023, for the offence punishable under Sections 323, 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Heard learned Advocate Mr. Neb for the applicants, learned APP Mr. Gaikwad for respondent Nos. 1 and 2 and learned Advocate Mr. Dhake, appointed to represent the cause of respondent No.2.

3. With the able assistance of learned Advocate for the applicants, learned APP and learned Advocate for respondent No.2, we have gone through the entire charge-sheet. Learned Advocate for the applicants submits that even if we take the entire charge-sheet as it is, the witnesses to the incident are the friends of the informant. No independent witness appears to have been examined by the investigating officer under Section 161 of the Code of Criminal Procedure. Further in the FIR though the informant is stating that all the accused persons had uttered the same insulting words, yet in his statement under Section 164 of the Code of Criminal Procedure, he has stated that the utterance was by only one person and other person was also present there. That means, in the said statement he has restricted the role of two persons only. The incident is alleged to have taken place on 19th April 2023 and the FIR has been lodged on 24th April 2023. The informant has stated that he was assaulted and the medico legal certificate would show only the simple injuries were caused, yet by allegedly explaining the delay, he states that he was experiencing some health issues. With this material, it would be unjust to ask the applicants to face the trial.

4. Per contra, the learned APP strongly opposes the application and submits that the investigation is over and the charge-sheet is filed, which shows that the utterance was at the public place. It was the orchestra that was going on and there were many persons who had gathered at the spot. When prima facie ingredients are made out, then there is no question of exercise of powers under Section 482 of the Code of Criminal Procedure.

5. Learned Advocate appointed for respondent No.2 supports the submissions by the learned APP and he submits that the witnesses have supported the contents in the FIR. He relied on the decision in *Anup S/o Ashok Bihani and others vs. The State of Maharashtra and others, 2017, All MR (Cri.) 2837*, wherein after taking note of the contents in the charge-sheet when it was found that the ingredients are made out, the Court refused to exercise inherent powers.

6. At the outset it is to be noted that from the contents of the FIR, statements of witnesses as well as the spot panchnama, it can be said that the spot was the public place or within the public view, where it is alleged that the orchestra was organized at the time of fair of Goddess Jagdamba on 19th April 2023. The

informant states that he as well as his friends were standing near the stage and around 10.40 p.m., the applicants went near them and in spite of having knowledge about the caste of the informant and his friends, and with an intention to insult them, they uttered that " तुम्ही येथे का थांबले तुमची महार मांगाची जागा पाठीमागे आहे. तेव्हा तुम्ही पाठीमागे जाऊन उभा रहा. " When informant objected, he was assaulted and in that process, his shirt was torn. The applicants allegedly gave threats. He states that he has taken treatment at Civil Hospital, Ahmednagar on 21st April 2023 and thereafter he has lodged the report. In his supplementary statement, which appears to have been recorded on the same day (for the best reasons known to the investigating officer), he has only explained that after his shirt got torn, the accused persons had thrown it and then he says that the accused persons are from Maratha caste. Statements of witnesses Karan Mandlik, Prashant Mandlik, Aakash Shinde are on the same line. Thus, it is to be noted that all of them have painted a picture that when they were standing near the stage when the orchestra was going on, the applicants went near them. If we consider the uttered words, then the meaning of the same would be taken that it was addressed to all i.e. not only to the informant but also to the witnesses. If this is so, then the informant and his friends all

were from the same caste, it was incumbent upon the investigating officer to record then the statement of independent witness. We would like to rely upon *Hitesh Verma vs. State of Uttarakhand and another, 2021 CRI. L.J. 1*, wherein the legal position has been clarified and it has been held that in order to prove offence under Section 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the prosecution should even prima facie make out the case that the alleged insulting words were uttered in presence of an independent witness.

7. Another fact here that is required to be noted is that there are three accused persons and it is tried to be stated that all of them have uttered the same words at the same time. In other words, the abuses are stated to be uttered in chorus, which cannot be factually correct. Abuses cannot be given in chorus because the mental element is also involved in the same and mental process of each person differs from another.

8. The informant's statement under Section 164 of the Code of Criminal Procedure is stated to be on a different line and he involves only one person in uttering the alleged abuses, thereby he is exonerating the other two from the abuses. Of course

taking into consideration the evidentiary value of a statement under Section 164 of the Code of Criminal Procedure, it cannot be considered at this stage, either in favour of the applicants or in favour of the informant. As regards the simple hurt is concerned i.e. the offence under the Indian Penal Code, it is non-cognizable in nature and therefore, the FIR under Section 154 of the Code of Criminal Procedure was not maintainable. Taking into consideration all these aspects, this is a fit case where we should exercise our inherent powers.

9. The facts in the case of *Anup S/o Ashok Bihani and others vs. The State of Maharashtra and others*, (supra), were different and depending upon the evidence before the Hon'ble Bench, the relief was refused. However, in the present case, for the aforesaid reasons, it would be an abuse of process of law if the applicants are allowed to face the trial and therefore, we pass the following order:-

ORDER

(I) The Application stands allowed.

(II) The proceedings in the Special Case No.246 of 2023, pending before the learned Special Judge under the S.C. & S.T.

Act, Newasa, District-Ahmednagar, arising out of the First Information Report vide Crime No. 78 of 2023 registered with Shani Shingnapur Police Station, Taluka Newasa, District-Ahmednagar on 24th April 2023, for the offence punishable under Sections 323, 504, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, stands quashed and set aside as against applicant Nos. 1 to 3 i.e. - 1) Sachin Abasaheb Bhoge, 2) Shubham @ Buntty Rohidas @ Ravindra Karpe and 3) Prashant Machindra Kurhe.

(III) Fees of the learned Advocate Mr. Dhake, appointed to represent respondent No.3, is quantified at Rs.5000/- to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JULY25