



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1171 OF 2024

Gangadhar Mahalappa Patne,
Age 82 yrs., Occ. Agri.,
R/o Chotigalli, Biloli,
Tq. Biloli, Dist. Nanded.

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through Police Station Officer,
Police Station, Biloli,
Tq. Biloli, Dist. Nanded.
- 2 Sou. Malanbai w/o Somnath Patne,
Age 65 yrs., Occ. Household,
R/o Deshmukh Nagar, Biloli,
Tq. Biloli, Dist. Nanded.

... Respondents

...

Mr. A.R. Borulkar, Advocate h/f Mr. S.G. Karlekar, Advocate for applicant

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. A.L. Kanade, Advocate for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

RESERVED ON : 05th MARCH, 2025

PRONOUNCED ON : 08th APRIL, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed for quashing the proceedings in Special Case No.1/2024 pending before learned Special Judge, under S.C. & S.T. Act, Biloli, Dist. Nanded arising out of First Information Report vide Crime No.141/2023 dated 07.08.2023 registered with Police Station, Biloli, Tq. Biloli, Dist. Nanded, for the offence punishable under Section 506 of the Indian Penal Code, 1860 and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2 Heard learned Advocate Mr. A.R. Borulkar holding for learned Advocate Mr. S.G. Karlekar for applicant, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. A.L. Kanade for respondent No.2.

3 Learned Advocate for applicant has taken us through charge sheet and First Information Report. He submits that the relationship between informant and present applicant is of brother-in-law and wife of brother. Brother of present applicant and respondent No.2 got married in 1985. It was an inter-caste marriage. But after so many years, whether there can be an abuse in the name of caste ? Respondent No.2 states that by intercepting her way applicant had abused her in the name of caste by asking her, as to

why she needs share in the property ? Husband of respondent No.2 has filed Special Civil Suit No.18/2023 before learned Civil Judge Senior Division, Biloli for declaration of his ownership over the suit property and possession of said property from present applicant. That suit came to be filed on 13.04.2023. That means, there is a dispute regarding property. Prior to that there was a decree passed in Regular Civil Suit No.123/1990 on 19.04.1990 on the basis of compromise. Husband of respondent No.2, present applicant and their another brother Vishwanath were the party to the proceedings. That suit was also for declaration and injunction and in the compromise it was stated that there was a compromise between applicant, husband of respondent No.2 and their brother on 05.10.1989 and 03.04.1990, which was then culminated into a written document of partition deed executed on 13.04.1990. Present First Information Report is nothing but the complaint application which the applicant had made on 17.04.2023. Applicant is ex Member of Legislative Assembly of the said constituency.

4 Learned APP as well as learned Advocate for respondent No.2 submit that First Information Report is supported by statement of husband of respondent No.2 and one Sayyad Mehraj Najirmiyan. The incident had taken place on the public road and, therefore, the basic ingredients of offence are attracted. This is not a case where powers under Section 482 of the Code of

Criminal Procedure are required to be exercised.

5 At the outset, we would like to say that investigation is over and charge sheet is filed and, therefore, this Court is duty bound to consider the entire material in the charge sheet. The First Information Report is silent regarding the disputes. But, when she states that present applicant asked as to why she needs share in the property, it can be highlighted that there is dispute. Interesting part to be noted that when alleged incident had taken place, the husband of respondent No.2 was with her, who has filed the said Special Civil Suit now on 13.04.2023. If at all the applicant intended to say anything regarding that dispute or suit, he could have directly stated it to the brother and when it is alleged that applicant asked as to why she needs share in the property, respondent No.2 appears to be twisting the facts. When the husband is alive, respondent No.2 cannot get any share in the ancestral property. Therefore, asking her the question, as to why she needs share in the property, is out of question.

6 We will have to consider the compromise decree that was passed in Civil Suit No.123/1990, which was in fact, filed by husband of respondent No.2. The dispute appears to have been resolved in respect of property at that time. Perusal of statement of husband of respondent No.2 is also silent on the point of previous disputes. It is also then to be noted that respondent

No.2 and brother of present applicant had got married in 1985. After the said marriage, what was the relationship i.e. whether the relationship between brothers was cordial or not, whether there was any occasion in so many years wherein they would have come in front of each other, all are the things those ought to have been reflected because that is the then crux of the matter. As to whether the applicant had, in fact, intention to insult respondent No.2 after so many years on the basis of her caste ? Respondent No.2 appears to be blessed with children and grand children also, but for some reason the dispute has again arisen resulting in Special Civil Suit filed by the husband. It appears that respondent No.2 is supporting and taking advantage of her caste. Though one Sayyad Mehraj Najirmiyani and Sayyad Shardul Ahmed have stated that they had seen and heard the applicant abusing respondent No.2, their names are not mentioned in the First Information Report. The another interesting part is, First Information Report is filed on 07.08.2023 in respect of incident dated 04.05.2023. The delay has not been explained at all in the First Information Report as well as in the statement of her husband and on the same day i.e. on 07.08.2023 even the Deputy Superintendent of Police i.e. the Investigating Officer could find out two eye witnesses also. It is highly impossible, unless managed that even the witnesses would be made available before the Investigating Officer. As the First Information Report appears to be the outcome of *mala fides*, case falls

under the guidelines for exercise of powers under Section 482 of the Code of Criminal Procedure laid down in **State of Haryana and others vs. Chh. Bhajan Lal and others** [AIR 1992 SC 604]. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Special Case No.1/2024 pending before learned Special Judge, under Atrocities Act, Biloli, Dist. Nanded arising out of First Information Report vide Crime No.141/2023 dated 07.08.2023 registered with Police Station, Biloli, Tq. Biloli, Dist. Nanded, for the offence punishable under Section 506 of the Indian Penal Code, 1860 and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, stands quashed and set aside as against applicant **Gangadhar Mahalappa Patne**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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