



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2204 OF 2024

1. Vishwanath Raghunath Dubukwad
Age : 46 years, Occ : Fishing,
R/o Handarguli, Tq. Udgir,
District. Latur.
2. Pappu @ Ramakant Vishwanath Amrutwad
Age : 24 years, Occ : Fishing,
R/o Wadhavana (Bk.), Tq. Udgir,
District Latur.
3. Balaji Raghunath Dubukwad
Age : 40 years, Occ : Fishing,
R/o Wadhavana (Bk), Tq. Udgir,
District Latur.
4. Shrikant Babu Chandanwad
Age : 45 years, Occ : Fishing,
R/o Wadhavana (Bk), Tq. Udgir,
District Latur.

..APPLICANTS

-VERSUS-

1. Vidyasagar Raghunath Somwanshi
Age : 40 years, Occ : Nil,
R/o Wadhavana (Bk), Tq. Udgir,
District Latur.
2. The State of Maharashtra
Through Police Inspector,
Wadhavana Police Station,
Latur, District Latur.

..RESPONDENTS

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Advocate for Applicants : Mr. L.V. Sangit
APP for Respondent- State : Mr. A.R. Kale
Advocates for respondent no.1 : Mr. Shaikh Mazhar A. Jahagirdar and
Mr. S.P. Mahale

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CORAM : SMT. VIBHA KANKANWADI AND
R.W.JOSHI, JJ.

DATED : 24th MARCH, 2025.

JUDGMENT (PER R.W. JOSHI, J.) :

. Present application is filed under Section 482 of the Code of Criminal Procedure, *inter alia*, seeking quashment of F.I.R. No.56/2022 registered with Wadhavana Police Station, Tq. Udgir, Dist. Latur for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code (I.P.C.) and under Sections 3(1)(r), (s) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered on 09.04.2022 along with Charge-Sheet No. 79/2020 dated 17.08.2022 and Special Case No.34/2022 registered pursuant to the same, which is pending on the file of the learned Special Judge under the SC & ST Act at Udgir, Dist. Latur.

2. Respondent No.2 – Informant has lodged the F.I.R. on 09.04.2022 stating that he was working as watchman at Tiru Lake. He has stated that on 29.03.2022, he had reported on duty in a tin shed located near the agricultural land of one Apparao Patil in village Wadhvana (kh), where his co-employee Fayyum Ismil Shaikh informed

him that a small boat of the society with whom respondent no.2 was employed was stolen, and therefore, the said Fayyum and respondent no.2 started searching for the said boat in an around the area surrounding the Lake. It is alleged that on 27.03.2022 at about 2:00 p.m., when they had reached the portion of Lake in village Handarguli Shivar, they found that the applicants had laid a fishing net in the Lake for catching fish. He states that he and Fayyum asked the applicants as to how they were carrying out fishing operation in the Lake and did they obtain any permission from the society for carrying out fishing. Respondent No.2 alleges that applicant no.1 got unnecessarily agitated and raised quarrel with respondent no.2 and Fayyum stating that nobody could stop them from carrying out fishing operation in the Lake and that respondent no.2 and said Fayyum or any other person was free to do whatever they wanted to do. He alleges that applicant nos.2 to 4 came near him and said Fayyum and stated that they were taking fish with them. He alleges that when he tried to stop the applicants from taking the fish, applicant no.2 abused him in the name of his caste and threatened him not to touch the bag containing fish. He alleges that applicant nos.2 to 4 started beating him with fist and kick blows. With such allegations respondent no.2 lodged complaint with respect to the incident that had occurred on 29.03.2022 on 09.04.2022 with respondent no.1 – Police Station. Respondent No.1 has completed the

investigation and has filed charge-sheet in the matter. On the basis of the charge-sheet filed, criminal case is registered against the applicants, which is now pending for adjudication before the learned Special Court under the SC & ST Act.

3. We have heard Mr.S.V. Sangit, learned advocate for the applicants, Mr.Shaikh Mazhar A. Jahagirdar, learned advocate for respondent no.1, Mr.A.R. Kale, learned APP for respondent no.2 and have perused the F.I.R. and the charge-sheet with their able assistance.

4. It is apparent from reading of the F.I.R. and the documents in the charge-sheet, particularly the statements of the witnesses, that a dispute had ensued between respondent no.2 and applicants in relation to fishing rights in the Lake. Respondent No.2 was allegedly abused and beaten up due to the said dispute. The act of hurling abuses or causing hurt is not due to the reason that the applicants belongs to scheduled caste. In this regard, it will be appropriate to refer to judgment of the Hon'ble Supreme Court in the matter of ***Khuman Singh Vs. State of M.P*** reported in ***(2020) 18 SCC 763***. In the said matter, a sudden quarrel had arisen between the deceased, who was belonging to scheduled caste and the accused in relation to grazing of buffaloes. The allegation was that the deceased was attacked by means of axe and was also

abused in the name of his caste. Offence under section 3(2)(v) was registered against the accused apart from the offence under Section 302 of the IPC. The Hon'ble Supreme Court has held with respect to offence under Section 3(2)(v) of the Act, that the evidence on record did not indicate that the offence was committed against the deceased, who belonged to scheduled caste only on the ground that he was belonging to such category. Relying upon the earlier judgment in the matter of *Dinesh Vs. State of Rajasthan* reported in (2006) 3 SCC 771, the Hon'ble Supreme Court has held that offence under Section 3(2)(v) can be said to be committed when general offence referred in the said provision is committed only because the person belongs to scheduled caste. Having held that the deceased was not attacked and murdered only because he belongs to scheduled caste, conviction under Section 3(2)(v) was set aside.

5. Although, the present case is for quashing of F.I.R. and not an appeal after trial, perusal of the F.I.R. and all the statements will indicate that it is not even alleged that respondent no.2 was beaten up because he belongs to scheduled caste. The allegation is that there was quarrel between the parties in relations to fishing rights, and therefore, respondent no.2 was beaten up by applicant nos.2 to 4. Only because respondent no.2, who was beaten up in relation to fishing rights,

belongs to scheduled caste category, offence under Section 3(2)(v) cannot be registered against applicant nos.2 to 4.

6. Offence under Section 3(1)(r) and (s) is made out when a person not belonging to scheduled caste or scheduled tribe category intentionally insults or intimidates a member of scheduled caste or scheduled tribe in any place within public view with an intent to humiliate him or abuse such person by the name of his caste in any place within public view. The essential ingredients of these two provisions is an intention to humiliate or abuse a person, who is a member of scheduled caste or scheduled tribe in the name of his caste or with a view to humiliate him in public view. As stated above, quarrel between applicants on one side and respondent no.2 and his co-worker had ensued on account of fishing rights. The quarrel was not due to caste background of the parties. In this regard, it will be profitable to refer to the judgment of the Hon'ble Supreme Court in the matter of ***Hitesh Verma Vs. State of Uttarakhand and another*** reported in **(2020) 10 SCC 710**, where the Hon'ble Supreme Court has held that all the acts of insult or humiliation to a person who belongs to a scheduled caste or scheduled tribe will not be an offence under the Act. In order to constitute the offence under the Act, the insult or humiliation should only be on account of the person belonging to scheduled caste or

scheduled tribe. The assertion of right over property by a person not belonging to scheduled caste or scheduled tribe resulting in a quarrel in which the person belonging to scheduled caste or scheduled tribe is abused in the name of caste or insulted or intimidated will not constitute an offence under the said provisions.

7. The other provisions under which offence is registered are non-cognizable sections of the IPC for which F.I.R. cannot be lodged. In that view of the matter, since ingredients of offence under Section 3(1)(r), (s) and 3(2)(va) of the Act are not made out, the F.I.R. is liable to be quashed. The continuation of the prosecution against the applicants would be abuse of process of law. We are, therefore, of the view that the application deserves to be allowed. Hence, we pass the following order

ORDER

- (i) The application is allowed.
- (ii) F.I.R. No.56/2022 registered with Wadhavana Police Station, Tq. Udgir, Dist. Latur for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), (s) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered on 09.04.2022 along with Charge-Sheet No. 79/2020 dated 17.08.2022

and Special Case No.34/2022 pending on the file of the learned Special Judge under the SC & ST Act at Udgir, Dist. Latur against the applicant no.1-Vishwanath Raghunath Dubukwad, applicant no.2 - Pappu @ Ramakant Vishwanath Amrutwad, applicant no.3 - Balaji Raghunath Dubukwad and applicant no.4 - Shrikant Babu Chandanwad, are hereby quashed.

[R.W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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