



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1777 OF 2021

- 1) Madhukar S/o Vishambar Sherekar,
Age-68 years, Occu:Agriculture,
R/o-Bardapur, Tq-Ambajogai,
District-Beed,
- 2) Sudhakar S/o Vishambar Sherekar,
Age-65 years, Occu:Agriculture,
R/o-Bardapur, Tq-Ambajogai,
District-Beed,
- 3) Arun S/o Vishambar Sherekar,
Age-61 years, Occu:Service,
R/o-Bardapur, Tq-Ambajogai,
District-Beed, At present:-
Ambajogai Road, Behind Hanuman
Temple, Latur, District-Latur,
- 4) Sunil S/o Sudhakar Sherekar,
Age-27 years, Occu:Agriculture,
R/o-Bardapur, Tq-Ambajogai,
District-Beed,
- 5) Santosh S/o Madhukar Sherekar,
Age-30 years, Occu:Agriculture,
R/o-Bardapur, Tq-Ambajogai,
District-Beed,
- 6) Samarjit S/o Madhukar Sherekar,
Age-27 years, Occu:Agriculture,
R/o-Bardapur, Tq-Ambajogai,
District-Beed,
- 7) Sushil S/o Bhaskar Sherekar,
Age-26 years, Occu:Agriculture,
R/o-Bardapur, Tq-Ambajogai,
District-Beed,

- 8) Sumit S/o Arun Sherekar,
Age-26 years, Occu:Agriculture,
R/o-Bardapur, Tq-Ambajogai,
District-Beed.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Police Station Bardapur,
District-Beed/S.D.P.O., Ambajogai,
District-Beed,
- 2) Pappeshkumar S/o Rahul Parmeshware,
Age-35 years, Occu:Agriculture,
R/o-Labour Colony, Latur,
Taluka and District-Latur.

...RESPONDENTS

...
Mr. Akash D. Gade Advocate for Applicants.
Mr. A.R. Kale, Additional P.P. for Respondent No.1.
Mr. Prasad D. Jarare Advocate for Respondent No.2.

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

DATE : 24th JUNE, 2025

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

1. Present Application has been filed, initially, for quashing the First Information Report (for short "the FIR") vide Crime No. 75 of 2021 registered with Police Station, Bardapur, Taluka-Ambajogai, District-Beed on 21st June 2021, for the offence punishable under Sections 143, 147, 148, 149, 324, 323, 342,

504, 506 of the Indian Penal Code and under Sections 3(1)(a), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of the Atrocities) Act (for short "the Atrocities Act"), and later on by way of amendment for quashing the proceedings in Special Case No.102 of 2021, pending before the Special Judge under the Atrocities Act, Ambajogai, District-Beed.

2. Heard learned Advocate Mr. Gade for the applicants, learned APP Mr. Kale for respondent No.1 and learned Advocate Mr. Jarare for respondent No.2.

3. Learned Advocate appearing for the applicants has taken us through the entire charge-sheet including the FIR. He submits that the informant has stated that by getting executed *Batai Patra* from one Nanasaheb Dnyandeo Pawar in respect of 1 Hectare 77 R from Gut Nos. 799 and 776 situated in village Bardapur, on 16th June 2021, he was cultivating the lands. He states that on 17th June 2021, he along with said Nanasaheb Pawar, had engaged one tractor owned by Vasant Vishnu Ghodke and another tractor owned by Umakant Vishnu Ghodke and started sowing activities in agricultural land Gut No.776. Around 1.30 p.m. to 2.00 p.m., applicant Madhukar Sherekar came near

them and told Nanasaheb Pawar that he should not cultivate the land. Applicant Madhukar started shouting and thereafter other applicants came. All the applicants, thereafter, abused the informant and the land owner, assaulted them by fists and slaps and started taking objections in respect of cultivating activities. Informant asked them as to why they were obstructing. At that time applicant Sudhakar assaulted on his right leg with the help of stick and applicant Madhukar caused injury to his right leg with stone. They both uttered, "ऐ महारड्या तु लय माजलास तुला खल्लास करुत". This was when they were knowing that the informant was member of scheduled caste. As a result of assault, informant fell down and thereafter the tractor drivers, namely, Vasant and Umakant came there and separated the quarrel.

4. Learned Advocate for the applicants submits that the story that has been given by the informant is factually incorrect. No doubt, applicant Arun was owner of the said land, but he executed sale deed in respect of 92 R land from Gut No.776 and 85 R land from Gut No.799 in favour of Nanasaheb Pawar, on 18th February 2019. Then immediately thereafter on 19th May 2021, Nanasaheb Pawar agreed to sell the said land to Vasant

Vishnu Ghodke. That registered document was executed on 21st May 2019 and possession of the said land is stated to have been given to Vasant Ghodke on that day. Under such circumstance, how said Nanasaheb Pawar would have given *Batai Patra* in favour of the informant. If we consider the said *Batai Patra* which is forming part of the charge-sheet, then it can be seen that it was stated to be executed for the period from 1st June 2021 to 1st June 2023 i.e. for two years. It is on the basis of crop cultivation i.e. 50 : 50% share between them. This appears to be a got up document. In fact in the said Gut No.776 there is a share of the present applicants. Statement of Vasant Vishnu Ghodke has been recorded on 2nd August 2021, however, he is silent on the document which was executed in his favour by Nanasaheb Pawar on 21st May 2019. Still he approves and states that Nanasaheb had executed the *Batai Patra* in favour of the informant. Statement of Nanasaheb Pawar is also silent about the document and how he had received the ownership over the property. When there was an encroachment tried to be made, then the present applicants were having right to defend their property. Furthermore, when the alleged abuses were given by applicants Sudhakar and Madhukar, nobody was present. Even if we consider that Nanasaheb was present, he was an interested

witness. The learned Advocate for the applicants therefore, relies on *Hitesh Verma vs. State of Uttarakhand and another, 2021 CRI. L.J. 1*, wherein 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.

5. Learned APP as well as learned Advocate appearing for respondent No.2 submits that now the investigation is over and the charge-sheet has been filed, therefore, let the trial Court take the evidence and come to the appropriate conclusion. The statements of witnesses would show that they were present at the spot and they have heard the accused persons hurling the abuses. Therefore, even the offence under the Atrocities Act has been made out.

6. Before taking up the matter on merits, a fact will have to be placed on record that respondent No.2 – informant had filed affidavit on 15th December 2022, stating that he has amicably settled the dispute with the applicants with the intervention of

elderly people in the village. He states that he lodged the report due to the misunderstanding and he states that, which is now cleared. He has no objection for quashing and setting aside the FIR and the proceedings. Here the fact that was involved that the offence was also registered under the Atrocities Act. There is a scheme with the Government, which is applicable to the members of the scheduled castes and scheduled tribes for giving compensation to them when any offence is committed against them. It would be a menace if without considering the real reason for intention behind the compromise, we allow compounding of the offence in a non-compoundable cases. The offences against the members of the scheduled tribe or scheduled caste are serious in nature and they are against the society and the weaker sections in the society. After getting the compensation amount if such informants are allowed to compound the offence and the said compensation amount is then not taken back, it would be a loss to the State exchequer. It would be then easy for certain members of the such caste or tribe to get huge amount of compensation from the public exchequer.

7. When initially we had made inquiry with the Advocate

representing respondent No.2, as to whether respondent No.2 has received compensation, the answer was in the negative. But then it was told that he would ascertain the information. We had then directed orally to the learned APP to get instructions as to whether respondent No.2 has received any compensation from the Government under the Scheme. On 16th June 2025, the learned APP placed on record the letter from Sub-Divisional Police Officer, Ambajogai which was marked Exhibit-"X", wherein it is stated that in all respondent No.2 has received an amount of Rs.75,000/- as compensation up till now and the last installment would be paid upon the culmination of the case. The misunderstanding cannot be the ground on which consent for quashment of the FIR can be given. The informant in his affidavit-in-reply has not stated that his FIR was genuine but he wants to pardon applicants. Thereafter, the learned Advocate for respondent No.2 failed to take instructions, as to whether respondent No.2 is willing to return the amount which he has received as compensation from the State. We deprecate such kind of practice or conduct on the part of respondent No.2. It appears that he wants to now enjoy the amount of compensation and at the same time, for the reasons best known to him, he has no intention to proceed with the matter further. We, therefore,

cannot quash the FIR and the proceedings on the basis of compromise. We therefore, asked the learned Advocate for the applicants to argue the matter on merits.

8. If we consider the documents on record, it would show that civil suits appear to be pending or were filed in the past as the agricultural land appears to be of the family. The boundaries would indicate that the applicants' land was adjacent to the land in dispute. It appears that by sale-deed dated 18th February 2019, applicant Arun Vishambar Sherekar has sold those pieces of land to Nanasaheb Pawar. The copy of the registered document styled as "agreement to sell with possession" would show that on 21st May 2019, the same land which Nanasaheb had purchased, he had agreed to sell it to Vishnu Ghodke. Possession was handed over to Vishnu Ghodke and still the statement of Vishnu Ghodke is silent in respect of this document. Vishnu Ghodke states that he was present at the spot on the day of incident, but he does not say that he was there in the capacity of owner of the land on the basis of said registered instrument. The said document shows that he is interested witness, though might be present at the spot. He had not executed the *Batai*

Patra but Nanasaheb, who had agreed to sell the land to Vishnu Ghodke, appears to have executed that document.

9. Another fact to be noted from the said document is that the stamp for the said document was purchased on 15th June 2020, but it appears to have been executed on 16th June 2021 i.e. beyond the period of six months. Possibility of creation of such document for some other purpose cannot be ruled out. Further, the duration of the said cultivation under *Batai Patra* is of two years and the possession is stated to have been parted with. It was the crop cultivation agreement and therefore, was compulsorily registrable. Even though this is criminal proceedings, we are required to consider prima facie, as to whether the informant would have gone on the said field due to some right.

10. Even if for the sake of argument the documents are taken as it is, it is tried to be projected that applicants Sudhakar and Madhukar in chorus, used alleged insulting words in spite of having knowledge about the caste of the informant. Abuses or insulting words cannot be uttered in chorus. Further, any independent witness appears to be not present at the spot. Witness Nanasaheb, as aforesaid, is definitely an interested

witness and witness Vishnu also is not an independent witness. Witness Umakant Vishnu Ghodke appears to be the brother of Vasant Vishnu Ghodke. Therefore, in view of *Hitesh Verma vs. State of Uttarakhand and another*, (supra), an offence cannot be said to have been made out. All the family members of the applicants are involved in the matter which definitely appears to be with mala fide intention. Under such circumstance, it would be an abuse of process of law if the applicants are asked to face the trial. Case is definitely made out to exercise the powers under Section 482 of the Code of Criminal Procedure.

11. As aforesaid, we have made observations in respect of compensation. It would affect the genuine cases if such after thought and calculated compromises are allowed under the reason that the FIR was lodged due to misunderstanding. We give liberty to respondent No.1 to recover the said amount which has been given to respondent No.2 under the scheme. With these observations, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The proceedings in Special Case No.102

of 2021, pending before the Special Judge under the Atrocities Act, Ambajogai, District Beed, arising out of the First Information Report vide Crime No. 75 of 2021 registered with Police Station, Bardapur, Taluka-Ambajogai, District-Beed on 21st June 2021, for the offence punishable under Sections 143, 147, 148, 149, 324, 323, 342, 504, 506 of the Indian Penal Code and under Sections 3(1)(a), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of the Atrocities) Act, stands quashed and set aside as against applicant Nos. 1 to 8 i.e. - 1) Madhukar S/o Vishambar Sherekar, 2) Sudhakar S/o Vishambar Sherekar, 3) Arun S/o Vishambar Sherekar, 4) Sunil S/o Sudhakar Sherekar, 5) Santosh S/o Madhukar Sherekar, 6) Samarjit S/o Madhukar Sherekar, 7) Sushil S/o Bhaskar Sherekar and 8) Sumit S/o Arun Sherekar.

(III) Respondent No.1 State is at liberty to take decision in respect of the recovery of the amount which has been given to respondent No.2 under the scheme, by way of compensation.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JUNE25