



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

904 CRIMINAL WRIT PETITION NO. 1003 OF 2023

Anurag Anupkumar Pardeshi,
Age : 32 Years, Occu. : Contractor,
R/o. Behind Government Rest House,
Beed, Tq. & Dist. Beed.

.... Petitioner

VERSUS

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Shivaji Nagar,
Beed, Dist. Beed.
2. Vishnu Bhaguram Nirde,
Age : 66 Years, Occu. : Agriculture,
R/o. Chanakyapuri, Behind Hanuman
Temple, Beed, Tq. & Dist. Beed.

.... Respondents

....
Advocate for Petitioner : Mr. Ashish Hazari h/f Mr. Amol B. Chalak
APP for Respondent No.1-State : Mr. A.D. Wange
Advocate for Respondent No.2 : Mr. Ashish R. Kachole
....

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

Dated : 23rd July 2025

PER COURT :-

1. The present petition has been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C."), initially for

quashing the First Information Report (for short "the FIR"), vide C.R. No.0107 of 2023, dated 05.03.2023, registered with Shivaji Nagar Police Station, Beed and later on, by way of amendment, for quashing the proceedings in Special Sessions Case No.56 of 2023, pending before the learned Special Judge under the Atrocities Act/Additional Sessions Judge, Beed, for the offences punishable under Sections 341, 504, 506 read with Section 34 of the Indian Penal Code, 1860 (for short "the IPC") and Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "the Atrocities Act").

2. Heard learned Advocate Mr. Ashish Hazari holding for learned Advocate Mr. Amol B. Chalak, for the petitioner, learned APP Mr. A.D. Wange, for respondent No.1-State and learned Advocate Mr. Ashish R. Kachole for respondent No.2.

3. Learned Advocate appearing for the petitioner has taken us through the entire charge-sheet including the FIR and submits that even if we take the material alleged as it is, yet the offences those have been registered will not be attracted. He submits that respondent No.2 is the father of Bhagyawant and the informant is residing adjacent to original accused No.1 Anand Kale. Bhagyawant is

in the business of tours and travels and it is his contention that Anand Kale is doing money lending business and he is the friend of Bhagyawant. Bhagyawant had taken certain amount as a handloan from Anand Kale. It is then stated that in order to repay the said loan of Rs.6 Lakhs, Bhagyawant had given in all six cheques i.e. three different banks cheques (two of each bank) and his son was giving the amount of Rs.60,000/- towards the interest per month. In spite of the fact that, in December, 2021, his son has repaid Rs.9 Lakhs, yet Anand Kale went to the house of the informant in January, 2022 and told that, in all, an amount of Rs.20 lakhs are still pending towards him and his friends.

4. The informant then states that, at sometime, he has repaid the amount in cash or it has been paid through online transactions using PhonePe or Google Pay App from the mobiles of himself, his wife and daughter-in-law. He states that, at the request of Anand Kale, an amount of Rs.27 Lakhs has been given to Akshay Kale, his personal assistant Sagar Dodke, Anurag Pardeshi i.e. the present petitioner and one Sachin Salgar. He then quotes the incident dated 24.02.2023, as against Anand Kale and one Ajay Gaikwad. He then states that another incident took place on 04.03.2023, wherein he states that along with Anand Kale, the present petitioner and Sagar

Dodke went to the house of the informant around 07.30 to 08.00 p.m., when all the family members of the informant were present by standing in front of the house and the abuses were given to the informant by Anand Kale, in the name of caste.

5. Learned Advocate for the petitioner submits that except taking name of the present petitioner in the alleged incident dated 04.03.2023, no act has been attributed to the present petitioner. No doubt, the charge-sheet shows that some amount has been transferred to the petitioner by daughter-in-law of the informant, but as per the contention of the petitioner, Bhagyawant had given cheques for repayment of the amount which he had taken as a hand loan from him. When those cheques got dishonoured, the present petitioner had filed a complaint under Section 138 of the Negotiable Instruments Act, before the learned Chief Judicial Magistrate, Beed. The petitioner has taken legal recourse for getting his outstanding amount, but in order to dupe the petitioner, it appears that the father has now lodged the FIR. The petitioner has not uttered any words against the informant or his family members. The statements of witnesses would show that only the family members were present at the time of alleged incident and therefore, none of the offences would get attributed.

6. Per contra, learned APP as well as learned Advocate for respondent No.2 strongly opposed the petition and submit that the documents would show that sufficient amount running in lakhs of rupees have been transferred from the account of the informant and his family members to the petitioner. Therefore, there was a money transaction between them and in spite of repayment of substantial amount, yet Bhagyawant appears to have been harassed. Now, the charge-sheet has been filed and therefore, let there be trial.

7. Here, it is to be noted that the offences are registered under Sections 341, 504, 506 read with 34 of IPC as well as Sections 3(1)(r)(s) of Atrocities Act. Therefore, from the entire charge-sheet, it is required to be seen as to whether the *prima facie* case, attracted the ingredients of said offences, are made out or not. Definitely, there appears to be a money transaction between the present petitioner and Bhagyawant and certain amount has been paid or repaid by the informant and his family members to the present petitioner. We need not go into the details whether the entire amount has been repaid or not. But, in the FIR, there is absolutely no mention as to exactly how much amount has been taken by Bhagyawant from the present petitioner. In the statement of Bhagyawant also, it is not stated that as to how much amount he had taken from the petitioner. His statement

under Section 161 of Cr.P.C. is nothing but the copy-paste of the FIR, thereby making a statement that an amount of Rs.6 Lakhs was taken from Anand Kale. A person who had taken the amount should explain as to how much amount he had taken and how he has repaid the same. When Bhagyawant has not stated as to how much amount he had taken from the petitioner, then the question arises as to why the payment was made to the petitioner by online transactions. Anyway, in spite of payment or repayment of the amount, no offence has been registered nor it is getting attracted.

8. In order to prove the offence under Section 341 of IPC, the prosecution should prove that a person was criminally restrained from proceeding in the direction where he has right to go. It appears that the said section was invoked in respect of alleged incident dated 24.02.2023. In the FIR, it is stated that on that day, Anand Kale and Ajay Gaikwad had restrained Bhagyawant from proceeding on Scooty vehicle, standing in the name of one Akash and then it is stated that they had taken the possession of the said vehicle. It is then stated that on 03.03.2023, Bhagyawant had lodged the FIR in respect of the incident dated 24.02.2023. In the said incident, the present petitioner was not in picture at all, therefore, Section 341 of IPC is not getting attracted against the present petitioner.

9. The informant, Bhagywant, Nikita/wife of Bhagyawant and Annapurna/wife of the informant are the witnesses, whose statements have been recorded by the Investigating Officer. All of them have stated that when Nikita had lodged the FIR, the accused persons got annoyed and went in front of the house of the informant. The accused persons abused Bhagyawant and at that time, the informant was present in the door of the house. Thereafter, Anand Kale allegedly abused or insulted the informant in the name of caste. Certainly, the present petitioner is not the person, as per their own contention, who had abused or insulted the informant and his family members. One more aspect is that in the entire charge-sheet, there is no statement of independent witness, which is must in view of the decision of the Hon'ble Supreme Court in ***Hitesh Verma Vs. State of Uttarakhand and Another, [(2020) 10 SCC 710]***, wherein it has been observed in para.14 that -

*"A key ingredient of Section 3(1)(r) is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as **Swaran Singh & Ors. v State through Standing Counsel & Ors, [(2008) 8 SCC 435]**. The Court had drawn distinction between the expression "public place" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some*

members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view."

10. As aforesaid, the statements are of the relatives only. On that count also, the ingredients of Sections 3(1)(r)(s) of Atrocities Act are not getting attracted. When the ingredients of the offences are not attracted, it would be an abuse of process of law to ask the petitioner to face the trial. A case is made out for exercising of powers under Section 482 of Cr.P.C. Therefore, the petition deserves to be allowed. Hence, we pass following order.

ORDER

- I) The Writ Petition stands allowed.
- II) The First Information Report vide C.R. No.0107 of 2023, dated 05.03.2023, registered with Shivaji Nagar Police Station, Beed and proceedings in Special Sessions Case No.56 of 2023, pending before the learned Special Judge under the Atrocities Act/Additional Sessions Judge, Beed, for the offences punishable under Sections 341, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 stands quashed and set-aside as against the present petitioner.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE