



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

CRIMINAL APPLICATION NO. 2672 OF 2022

1. Prakash S/o Vitthal Bondirwad,
Age: 41 Years, Occ. Agriculture
2. Shriram S/o Vitthal bondirwad,
Age : 45 years, Occ. Agriculture
3. Prashant S/o Shriram Bondirwad,
Age : 22 Years, Occ. Agriculture
4. Pandurang Shetti Bondirwad,
Age : 34 Years, Occ. Agriculture

All resident of Sawargaonmet, Tq. Bhokar,
District Nanded.

..Applicants
(Original accused)

VERSUS

1. The State of Maharashtra,
Through Police Station Officer,
Bhokar Police Station,
Tq. Bhokar, Dist. Nanded.
2. X. Y. Z.

.. Respondents
(Res. No.2 Original
informant)

....

Advocate for the Applicants : Mr. Pathan Tahiwarekhan Wajeed
Khan and U.T. Pathan

A.P.P for Respondent No.2 : A.D. Wange

Advocate for Respondent No.2 : Absent

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**CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**

DATED : JANUARY 02, 2025

ORDER:-

1. Present application has been filed invoking the inherent powers
of this Court under Section 482 of the Code of Criminal Procedure for
quashing the First Information Report vide C.R. No. 0234 of 2022

registered on 26.06.2022 with Bhokar Police Station, District Nanded and by way of amendment for quashing the proceeding in Special Case No. 20 of 2022 pending before the learned Special Judge under the Atrocities Act/ learned Additional Sessions Judge, Bhokar, District Nanded, for the offences punishable under Sections 452,354,294,323,504 read with Section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(1)(w)(ii) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. Heard the learned Advocate for the applicants, and the learned A.P.P for Respondent No.1/State. The learned Advocate for respondent No.2 is absent. In order to cut shot, it can be stated that they have argued in support of their respective contentions.

3. The only point which has been stressed on behalf of the applicants is that prior to the impugned First Information Report, on behalf of the applicants First Information Report vide Crime No. 100 of 2022 was registered with the same police station on 21.03.2022 against the informant and family under Section 363 read with Section 34 of the Indian Penal Code to which later on Section 376 of the Indian Penal Code and offence under the provisions of Sections 4 and 8 of Protection of Children from Sexual Offences (POSCO) Act have been added.

4. The applicants say that in order to pressurize the applicants to withdraw the said case, a concocted First Information Report has been lodged and another incident had occurred on 23.06.2022 for which First Information Report Crime No. 228 of 2022 was also lodged with the same police station for the offences punishable under Sections 452, 336, 363, 511, 504, 506 read with Section 34 of the Indian Penal Code.

5. It appears from the record that there is no dispute as regards the fact that the present respondent No.2 is a member of Scheduled Caste. The present First Information Report vide C.R. No. 234 of 2022 has been registered in respect of an incident dated 23.06.2022. The delay has been tried to be explained in the First Information Report by saying that she was under fear. We are required to consider only the *prima facie* fact and delay cannot be the only ground on which the First Information Report and the proceeding can be quashed because it is always explainable.

6. If we consider the contents of the First Information Report, then the informant says that all the four applicants had gone to the house of respondent No.2, then applicant No.1 had abused her in the name of caste and then she says that all of four had dragged her by holding

her hands on the public road in front of the house. Taking into consideration this aspect certainly as regards the first part which had occurred inside the house, it will not attract the offence punishable under Sections 3(1)(r) and 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 as the insult is not either on the public road or within public view.

7. The informant further states that after she was brought on the public road, she was abused by applicant No.1 once again in the name of caste, she was molested and when she was assaulted by the applicants at that time her husband and son came to rescue her. The abuses were also given by applicant No.1 to her husband and son of the informant, they were assaulted by applicant Nos. 1 and 2. They were threatened and then it is said that they were rescued by father-in-law and others who have been named in the First Information Report. She has also stated that at around 7.00 p.m. on 25.06.2022, all the four accused had threatened by going to the house of the informant that no offence should be lodged against them.

8. Now the charge sheet is filed and copy of the same has been made available for perusal of this Court. The charge sheet would show that statement of Hojiram-husband of the informant, Budharatan son of the informant have been recorded who have stated

in terms of the First Information Report and both have stated that after they had heard the voice of the informant they have gone to the place of incident. Further there is statement of Adeleu Kondiba Sonkamble who appears to be the relative of the informant. The another witness is Shobhabai, who appears to be the cousin sister of Bhojiram and another witness Laxman Bhivaji Dongare is the husband of Shobhabai, that means all the witnesses appear to be the relatives. There is no statement of an independent witnesses who is not the relative of the informant. Presence of such independent witness has been high lighted in **Hitesh Verma Vs. State of uttarakand and another [(2020) 10 Supreme Court Cases 710]** and therefore, we are of the opinion that the offences punishable under Sections 3(1)(r) and 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 are not made out.

9. Learned A.P.P has placed on record a downloaded copy of the case status of the Special Case No. 20 of 2022 and it appears that on 02.08.2024, the charge was framed. Framing of charge will not be an hurdle for us to consider the case as for the aforesaid reasons even the cognizance ought not to have been taken in respect of offences under Sections 3(1)(r) and 3(1)(s) of the Atrocities Act.

10. As regards offence punishable under Section 452, 354, 294,

323, 504 read with Section 34 and Sections 3(1)(w) (i), 3(1) (w) (ii) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is concerned, we are of the opinion that there is *prima facie* case and therefore the criminal application deserves to be partly allowed. Hence, we proceed to pass following order.

ORDER

- (1) The application is partly allowed.
- (2) The First Information Report vide Crime No. 234 of 2022 registered on 26.06.2022 with Bhokar Police Station, District Nanded and the proceeding in Special Case No. 20 of 2022 pending before the learned Special Judge under the Atrocities Act/ learned Additional Sessions Judge Bhokar, District Nanded stands quashed and set aside to the extent of Section 3(1)(r) and 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989 against applicant No.1 Prakash S/o Vitthal Bondirwad, applicant No.2 Shriram S/o vitthal bondirwad, applicant No.3 Prashant S/o Shriram Bondirwad, applicant No.4 Pandurang Shetti Bondirwad.
- (3) The application stands rejected as regards quashment of the First Information Report and the proceedings in respect of other offences and therefore trial to proceed for those offences.

(ROHIT W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE