



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 CRIMINAL APPLICATION NO.3607 OF 2024

Dnyaneshwar Raosaheb Dhoble,
Age 38 yrs., Occ. Municipal Councillor,
R/o Sanjay Nagar, Old Jalna,
Tq. & Dist. Jalna.

... Applicant

... **Versus** ...

- 1 The State of Maharashtra
Through Police Inspector,
Police Station, Kadim Jalna,
Tq. & Dist. Jalna.
- 2 Priyanka Rajendra Ratnaparkhe,
Age 28 yrs., Occ. Private Service,
R/o Shankarnagar, Old Jalna.

... Respondents

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Mr. A.C. Sisodiya, Advocate for applicant

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

Mr. M.P. Tripathi, Advocate for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.

DATE : 25th MARCH, 2025

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

1 Present application has been filed initially for quashment of First Information Report vide Crime No.68/2024 dated 23.02.2024 registered with Police Station, Kadim Jalna, Tq. & Dist. Jalna and later on by way of amendment for quashing charge sheet i.e. proceedings in Special Case No.419/2024 pending before learned Special Judge, under the S.C. & S.T. Act, Jalna, for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1960 and under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2 Heard learned Advocate Mr. A.C. Sisodiya for applicant, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. M.P. Tripathi for respondent No.2.

3 Learned Advocate for applicant vehemently submits that perusal of First Information Report lodged by respondent No.2 would show that it is belatedly given with ulterior motive and in spite of having knowledge about the consequences of her acts, when she had consensual relationship. As regards present applicant is concerned, exact relationship is also not stated between main accused and applicant. Even if it is taken that present

applicant is a relative; yet, he is not residing with the main accused and, therefore, Section 498-A of the Indian Penal Code cannot be attracted against him. The role attributed to present applicant is that he had invited the informant by giving a phone call on the cell phone of her mother on 08.02.2024 that she should come to their house. Prior to that she says that she had love affair with Krishna Dhobale, the main accused and even they had married with each other on 23.01.2024. Then she says that when she was called in the house on 08.02.2024, at that time abuses in the name of caste were given and she was driven out of the house. She then states that she was anyhow taken with the intervention of the police in the house of Krishna on 16.02.2024. Then as regards present applicant is concerned, she says that around 10.00 a.m. on 17.02.2024 he went to the house of Krishna and started asking her as to why she has come in the house and then abused her in the name of caste. Therefore, these allegations do not attract the ingredients of even Atrocities Act. Merely, because the applicant is the Municipal Counsellor he has been roped in.

4 Per contra, learned APP as well as learned Advocate for respondent No.2 strongly opposed the application. They both have stated that as regards present applicant's role is concerned, because of his acts the harassment was given or she was subjected to cruelty by the other accused

persons. The abuses though stated to be given inside the house; yet, it would be a matter of trial, as to whether it was within public view or not. Learned Advocate for respondent No.2 tries to rely on the decision in **Swaran Singh vs. State**, [(2008) 8 SCC 435].

5 Present application is filed by only one accused and, therefore, we are required to consider his role to the limited extent. Informant states that she is Bauddha by caste. It appears that she entered into marriage with accused No.2 Krishna Dhobale under the Special Marriage Act on 23.01.2024 and prior to that it appears that she had obtained divorce from her earlier husband under Section 13(1)(B) of Hindu Marriage Act, 1955 in Hindu Marriage Petition No. F-104/2023 by Judgment and Decree dated 04.11.2023 from Judge, Family Court, Jalna. In the First Information Report, interestingly she says that Krishna had made phone call to his mother and told about intention to marry the informant, at that time the mother told that she is not objecting and they can perform registered marriage, but then after the marriage Krishna told her that the work of construction is going on in his house, therefore, she should not come to house and after he informs the mother, she can accompany him. She says that in spite of her insistence several times to take her with him he was not taking her with him. Then she says that on 08.02.2024 present applicant had given a phone call on mobile

of her mother and asked her to come to house. She had refused that offer, but then when applicant insisted, she went to his house, that means, applicant's house, where Krishna and other persons were present. She then states that at that time the applicant abused her in the name of caste and told that they do not accept her and, therefore, she should give signatures on the bond and they will just get rid of the marriage. We are only taking the statements from First Information Report as it is and it appears that the said incident had taken place inside the house, which cannot be a public place. Even the spot panchnama, which was executed after it was shown by informant, does not show that it was in the public view. Then as regards other incident is concerned, the informant states that around 10.00 a.m. on 17.02.2024 applicant went to the house. Now, here she refers the house of accused Krishna, because she says that on 16.12.2024 with the intervention of the police she went to reside with Krishna. Even then incident of 17.02.2024 has also taken place in the house. Therefore, the basic ingredients of Section 3(1)(r) and 3(1)(s) of the Atrocities Act are not attracted. No other person was present at the said place and, therefore, we rely on the observations from **Hitesh Verma vs. State of Uttarakhand and another** by Three Judge Bench decision reported in **(2020) 10 Supreme Court Cases 710**. In paragraph Nos.14 it has been observed thus -

14. Another key ingredient of the provision 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 v. State*, (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. The Court held as under :

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the 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, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.” (emphasis in original)

6 The role attributed to the present applicant is of two incidences only, that too, for few minutes or hours and, therefore, it cannot be considered as a cruelty as defined under Section 498-A of the Indian Penal Code. The other offences are absolutely not even attracted. Therefore, this is a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The charge sheet i.e. proceedings in Special Case No.419/2024 pending before learned Special Judge, under the S.C. & S.T. Act, Jalna arising out of First Information Report vide Crime No.68/2024 dated 23.02.2024 registered with Police Station, Kadim Jalna, Tq. & Dist. Jalna, for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1960 and under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, stands quashed and set aside as against applicant **Dnyaneshwar Raosaheb Dhoble**.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

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