



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

34 CRIMINAL APPLICATION NO. 2745 OF 2023

Renuka W/o Appasaheb Bhange
VERSUS
The State of Maharashtra and another

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Advocate for Applicant : Mr. Narayan B. Narwade
APP for Respondent No.1: Smt. P. R. Bharaswadkar
Advocate for Respondent No.2 : Mr. Nilesh N. Bhagwat h/f Mr. A.R.
Muley

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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**
DATED : 6th FEBRUARY, 2025

PER COURT :-

1. The present application has been filed, initially for quashing of F.I.R. vide C.R.No. 627 of 2023, dated 08.06.2023, registered with Newasa police station, district Ahmednagar and later on, by way of amendment for quashment of proceedings in Special Case bearing No.233 of 2023, pending before the learned Special Judge, under the Atrocities Act, at Newasa for the offences punishable under Sections 504, 506 of I.P.C. and under Sections 3(1)(r), 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard learned advocate for the applicant and learned A.P.P. for the respondent-State.

3. Learned advocate Mr. Bhagwat h/f Mr. Muley, for respondent No.2 sought accommodation on the ground of ill health of advocate Mr. Muley. However it is to be noted that the Vakalatnama appears to have been filed by the advocate Mr. Muley as well as advocate Mr. L.M. Ratnakar. No ground has been shown for absence of advocate Mr. Ratnakar. Hence, we are not inclined to grant adjournment.

4. Learned advocate for the applicant submits that perusal of F.I.R. and entire charge sheet would show that the ingredients of offences are not attracted. The incident is alleged to have taken place on 04.05.2023 but the F.I.R. has been lodged on 08.06.2023. Such huge delay has not been explained. Further, in the F.I.R. as well as in the charge sheet, the informant and the prosecution case does not say that there was presence of any independent witness, who had heard words of insult. Therefore, with this material, it would be unjust to ask the applicant to face the trial.

5. Learned A.P.P. submits that since there is evidence now collected and the informant, being a member of scheduled caste, she needs to be protected and trial should go on.

6. Taking into consideration the scope of application under

section 482 of Cr.P.C. we are considering whether the contents of the F.I.R. and the charge sheet make out a prima facie case. There is material on record, which will show that respondent No.2-informant is a member of the scheduled caste. She states that the incident took place around 10.00 a.m. on 04.05.2023. The applicant resides in the neighbourhood. The applicant had thrown garbage in front of house of the informant and therefore, the informant asked her as to why she is intentionally throwing garbage in front of her house. The applicant then abused her in the name of her caste and insulted her and uttered that "You are worthy of the Mahars. You are used to living near the garbage. You have already lived on the dump. What is new to you? You live in the garbage. You Mahars are not capable of equalizing us. Kishor Jojar is behind me (in support of), what is his impression in the village and outside the village, don't you know? That's why no one can do anything to me. She threatened me that he (Kishor Jojar) will kill you (me) on one word of mine (Renuka Bhanage's)".

7. Thus, it is to be noted that in the F.I.R., she has not stated that any other independent witness was present at the spot and he/she had heard whatever was stated by the applicant. No doubt, when the alleged incident stated to have taken place in front of the house that was at the place which was a public road i.e. public place

and also within the public view but presence of independent witness has not been stated. The entire charge sheet would show that there are statements of husband and father-in-law of the informant but admittedly, they were not present at the time of incident. We would like to rely upon ***Hitesh Verma vs. State of Uttarakhand and another, (2020) 10 SCC 710***, wherein the Hon'ble Supreme court has clarified the position of law and held that such insulting words should be heard by an independent witness that means who is not related to informant or the aggrieved person. When the basic ingredients of the offence are not made out, which could attract the offences under the Atrocities Act, it would be a futile exercise to ask the applicant to face the trial. As regards the offence under the Indian Penal Code is concerned, it is not cognizable and therefore, entire proceedings will have to be quashed by invoking the powers under Section 482 of the Code of Criminal Procedure, 1973. Hence, we proceed to pass the following order:-

O R D E R

- I. The application stands allowed.
- II. The proceedings in Special Case bearing No.233 of 2023, pending before the learned Special Judge under the Atrocities Act, at Newasa, for the offences punishable under Sections 504, 506 of I.P.C. and under Sections 3(1)(r), 3(1)

(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, arising out of F.I.R. No. 627 of 2023 dated 08.06.2023, registered with Newasa police station, district Ahmednagar, stands quashed and set aside, as against the applicant.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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