



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 CRIMINAL APPLICATION NO.2788 OF 2023

- 1 Sahil @ Baburao Suryakant Bhore,
Age 18 yrs., Occ. Education,
- 2 Onkar Jagannath Deshmukh,
Age 16 yrs., Occ. Education,
since minor, through his natural guardian
C/o Jagannath Balasaheb Deshmukh,
Age 40 yrs., Occ. Agri.,

Both are r/o Brahman Galli, Wadwani,
Tq. Wadwani, Dist. Beed.

... Applicants

... Versus ...

- 1 The State of Maharashtra
Through Police Station, Wadwani,
Tq. Wadwani, Dist. Beed.
- 2 Karan Sitaram Ujgare,
Age 23 yrs., Occ. Business,
R/o Bhimnagar, Wadwani,
Tq. Wadwani, Dist. Beed.

... Respondents

...

Mr. K.S. Solanke, Advocate h/f Mr. A.V. Lavte, Advocate for applicants

Mr. A.R. Kale, APP for respondent No.1

Mr. R.D. Khadap and Mr. C.N. Veer, Advocates for respondent No.2

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

DATE : 05th MARCH, 2025

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

1 Present application has been filed initially for quashing First Information Report vide Crime No.124/2023 dated 14.06.2023 registered with Police Station, Wadwani, Dist. Beed, for the offence punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and later on by way of amendment for quashing Special Case No.49/2023 pending before learned Special Judge, under the Atrocities Act, Majalgaon, Dist. Beed.

2 Heard learned Advocate Mr. K.S. Solanke holding for learned Advocate Mr. A.V. Lavte for applicants, learned APP Mr. A.R. Kale and learned Advocate Mr. R.D. Khadap as well as Mr. C.N. Veer for respondent No.2. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Respondent No.2 has filed First Information Report on 14.06.2023 in respect of an incident that had taken place on 10.06.2023.

Informant says that he is member of Scheduled Caste. Around 8.30 p.m. on 10.06.2023 he was proceeding from Dr. Babasaheb Ambedkar Chowk to his house and he was near the temple of Lord Maruti. At that time, present applicants were also standing near the spot. They came near the informant and abused him in the name of caste and asked him as to why he had lodged complaint against them with Wadwani Police Station (तुम्ही महारगांडे लय माजलात तुम्ही माझ्या विरुद्ध पोलीस स्टेशन, वडवणी येथे यापुर्वी तक्रार का दिली). Informant told them that he has not lodged any complaint. But applicant No.1 started saying that he does not know anything and he took out small knife and gave blow of same to the left side of head of informant, resulting in bleeding injury. Applicant No.2 assaulted him with iron rod causing injury to his right rib. Informant fell down on the ground and sustained injury to his cheek. Applicant No.1 gave kicks in his stomach, informant started shouting, but still applicants were giving filthy abuses in the name of caste and thereafter by taking the weapons with them they fled away. Thereafter, due to shouts of informant one Balu Ghodke and another person came, they took him to Wadwani Police Station on motorcycle and after taking medical slip he was taken to Government Hospital, Wadwani, where his father and other persons came, to whom he had narrated the incident. Stitches were applied to his injury to the head in hospital and then he was referred for further treatment to Government Hospital, Beed. He was admitted there till 13.06.2023. He

was discharged on 14.06.2023 and, therefore, he lodged First Information Report on that day.

4 Now, the investigation is complete and charge sheet has been filed. Discharge card shows that he was admitted on 10.06.2023 and discharged on 13.06.2023. The history has been given as physical assault. The caste certificate of informant has been filed showing him to be member of Scheduled Caste. Injury certificate shows that two injuries were caused; one is laceration to left parietal region, 2 cm. x 2 cm. x muscle deep in size, caused with hard and blunt object and simple in nature and second injury is abrasion to left elbow, 2 cm x 2 cm in size, caused with hard and blunt object and simple in nature. Though it is stated that the object that was used for causing injury is knife which has to be a sharp weapon but the medical report says that both the injuries are caused by hard and blunt object. Still, it can be seen that iron rod is also stated to be used in the commission of crime and simple injury has been caused. Supplementary statement of informant shows that informant had acted as panch in the offence which was registered against the applicants and actually the accused persons were annoyed with the fact that he acted as panch in that matter against them. Statement of father of informant would show that after he received information he had gone to private hospital i.e. Pulse Hospital, where the informant was taken.

Same is the case with witness Sanjay Salve, Samadhan Ujgare. Thereafter there are statements of Balu Ghodke and Ajay Ghodke and they both are saying that after they had heard the noise, they went near the place where dispute was going on. One person was being assaulted by two persons. Then they could see that present applicants were assaulting the informant. When these two persons reached near the informant, informant had already sustained injuries and assailants had left the place. Upon inquiry with informant, they came to know that present applicants had abused the informant in the name of caste and then assaulted.

5 Thus, taking into consideration the entire material, we are of the opinion that offences under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not attracted, as those abuses have not been heard by a third person, as is the requirement in **Hitesh Verma vs. State of Uttarakhand and another** [(2020) 10 Supreme Court Cases 710]. In paragraph No.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)

Further, when utterances were not in the name of caste independently coming before this Court i.e. from the mouth of an independent witness, even at this *prima facie* stage, we cannot say that the said assault on the informant was only because he is a member of Scheduled

Caste. When First Information Report is registered for these offences also as well as charge sheet is also filed before Special Judge, under the Atrocities Act, Majalgaon, we are of the opinion that this is a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure partly to the extent of quashing First Information Report and charge sheet for the offences under the Atrocities Act. As regards the offences under the Indian Penal Code are concerned, certainly, those are made out *prima facie*. Hence, following order.

ORDER

- i) Criminal Application stands partly allowed.
- ii) The proceeding in Special Case No.49/2023 pending before learned Special Judge, under the Atrocities Act, Majalgaon, Dist. Beed arising out of First Information Report vide Crime No.124/2023 dated 14.06.2023 registered with Police Station, Wadwani, Dist. Beed stands quashed and set aside as against applicant Nos.1) Sahil @ Baburao Suryakant Bhore and 2) Onkar Jagannath Deshmukh, to the extent of offence punishable under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 only.

iii) It is clarified that the relief of quashing the said proceedings for other offences stands rejected.

iv) The concerned Court to take further steps as against applicants.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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