



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2851 OF 2023

1. Vishnu s/o Nagorao Sakule
2. Omkar s/o Nagorao Sakule
3. Maroti s/o Nagorao Sakule
4. Dhondiba s/o Baliram Sakule
5. Gajanan s/o Baliram Sakule
6. Shivila w/o Gajanan Sakule
7. Kashibai w/o Vilas Duparte
8. Jyoti w/o Maroti Sakule
9. Sangita w/o Vishnukant Sakule

**(As per order dated 28.08.2023
application is withdrawn as against
applicant Nos.1 to 5)**

.. Applicants

Versus

1. The State of Maharashtra
Through Police Station Officer,
Police Station Kinwat, Tq. Kinwat,
Dist. Nanded.
2. Atul s/o Hari Darshanwad

.. Respondents

...
Mr. G. R. Ingole, Advocate for the applicants.

Mr. A. D. Wange, APP for respondent No.1/State.

Mr. R. K. Shingare h/f Mr. A. N. Nagargoje, Advocate for respondent No.2.

...

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

DATE : 03 JANUARY 2025

ORDER :

. Present application has been filed under Section 482 of the
Code of Criminal Procedure for quashing the FIR bearing Crime

No.220 of 2022 dated 13.11.2022 registered with Kinwat Police Station, Taluka Kinwat, District Naded as well as to quash the proceedings i.e. charge-sheet No.32 of 2023 dated 19.05.2023 filed before the learned Judicial Magistrate First Class, Kinwat, for the offences punishable under Sections 143, 147, 149, 323, 324, 506 of Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "Atrocities Act").

2. Heard learned Advocate Mr. G. R. Ingole for the applicants, learned APP Mr. A. D. Wange for respondent No.1/State and learned Advocate Mr. R. K. Shingare holding for learned Advocate Mr. A. N. Nagargoje for respondent No.2.

3. Learned Advocate for the applicants submits that the application came to be withdrawn in respect of applicant Nos.1 to 5. It has to be considered for applicant Nos.6 to 9 only, who are the ladies. After taking us through the contents of the FIR and charge-sheet, he submits that in order to rope entire family, allegations have been made and the offences under the Atrocities Act will not be attracted against them.

4. Learned APP as well as learned Advocate for respondent No.2 submit that there is *prima facie* material against the present applicant Nos.6 to 9 also and, therefore, interference is not required.

5. Perusal of the FIR as well as the statements of witnesses including the statements of Godavari Hari Darshanwad, who is injured due to the alleged acts of applicant Nos.6 to 9 and the statements of eye witnesses would show that when Godavari went to the spot, the applicants had pulled her hair and she fell down in the said process. Those statements and the FIR would show the allegations in respect of formation of unlawful assembly and it is stated to be in furtherance of common object. It will not be out of place to mention here that as per Chapter VI paragraph No.8(a)(4) of the Criminal Manual, an alternative charge is required to be framed, when there is a question of whether offence under Section 149 of Indian Penal Code is involved or Section 34 of Indian Penal Code is made out. Pulling hair amounts to simple injury, which can be said to be covered under Section 323 of Indian Penal Code and, therefore, as there is *prima facie* material, we do not find this to be a fit case for exercise of power under Section 482 of the Code of Criminal Procedure. We

leave it to the learned Special Judge for framing the charge under the appropriate Sections.

6. Criminal Application stands dismissed.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm