



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

63 CRIMINAL APPLICATION NO. 3721 OF 2024

Madhav Sambhaji Bhise
Age 47 years, Occ. Service (Teacher)
R/o. Ghansar, Tq. Renapur
District Latur
At present Kostagaon, Tq. Renapur
district Latur

...Applicant

Versus

1. The State of Maharashtra
Through Office in charge
Police Station, Renapur
District Latur
2. Sumanbai Balasaheb Shinde
Age 58 years, Occ. Homemaker &
Agriculture
R/o. Ghansar, Tq. Renapur
Distrit Latur

...Respondents

Advocate for Applicant : Ms. Neha Udavant h/f Mr. S.J. Salunke
APP for Respondent No.1: Mrs. Rashmi P. Gour
Advocate for Respondent No.2 : Mr. Nitin Salunke (absent)

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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**
DATED : 8th APRIL, 2025

PER COURT :-

1. The present application has been filed initially for quashing of the F.I.R. vide C.R. No. 231 of 2024, dated 21.06.2024 registered with Renapur police station, district Latur and later on for quashment of the Special (Atro. S.C. and S.T.) Case No. 116 of 2024 pending

before the learned Special Judge, under the Atrocities Act Latur, for the offences punishable under sections 354, 324, 323, 504, 506 of I.P.C. and under Sections 3(1)(r), 3(1)(s), 3(2) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act").

2. Heard Ms. Neha Udavant h/f Mr. S.J. Salunke, learned advocate for the applicant and Mrs. Rashmi Gour, learned A.P.P. for respondent No.1. Learned advocate for respondent No.2, appointed through legal aid, is absent.

3. Learned advocate for the applicant has taken us through the entire charge sheet, including F.I.R. and submits that the F.I.R. is outcome of vengeance, as the dispute in respect of boundary has overtaken the relationship and it has resulted in lodging of various reports. Perusal of the spot panchnama would show that the spot was not within the public view or in a public place, as is required for proving the ingredients of Sections 3(1)(r) and 3(1)(s) of the Atrocities Act. The alleged outraging of modesty or assault is also not on the count that the informant belongs to a particular caste. Therefore, ingredients of section 3(2) and 3(2)(va) of the Atrocities Act are also not attracted.

4. Learned A.P.P. strongly opposes the application and submits that the proof of the spot can be in the trial court only and therefore, the trial court is the proper court to decide as to whether the incident occurred in a public view and in public place. The contents of the F.I.R. would clearly show that the applicant was aware about the caste of respondent No.2 and still, by abusing her in the name of caste, he had outraged her modesty and therefore, when charge sheet is now filed let there be a trial.

5. From the contents of charge sheet, including the F.I.R. it can be gathered that there is a dispute between the family of the informant and the applicant, as their agriculture lands are adjacent to each other and there is a boundary dispute. In the past also, there were incidents which have led to lodging of criminal cases. The enmity is a double edged weapon and therefore, that cannot be considered as only ground on which the F.I.R. and the proceedings can be quashed and set aside, unless there is a clear evidence regarding vengeance.

6. Considering the F.I.R., statement of the alleged eye witnesses and spot panchnama, which was shown by respondent No.2 herself, it can be gathered that the incident is alleged to have been committed in the field of informant and rough map as well as

boundary noted in the spot panchnama would show that the said spot was much away from the village road which is shown towards south. Another road is towards east. However, towards east of respondent No.2's land, there is the land belonging to the applicant. Spot panchnama rules out the possibility of hearing of the abuses by third person or even he or she can witness it from the road. As per the investigation one Bandu, who is son of the informant and Dinesh, who is nephew of respondent No.2, are eye witnesses. Even as regards the nephew is concerned, he says that when he found paternal aunt i.e. the informant crying near mango tree in her field, he went there and asked the informant as to what has happened and thereafter, she narrated entire story to him. Therefore, he cannot be considered as an eye witness to the incident. In view of decision of Hon'ble Apex Court in the case of **Hitesh Verma vs State of Uttarakhand and another; (2020) 10 SCC 710**, there has to be an independent witness, who had heard the accused hurling abuses in the name of caste. Therefore, basic ingredients of section 3(1)(r) and 3(1)(s) of Atrocities Act are not even *prima facie* attracted.

7. There is document on record to show that the applicant had knowledge about the caste of informant. However, whether that is sufficient to attract sections 3(2) and 3(2)(va) of the Atrocities Act is a question. Again we would like to rely upon **Hitesh Verma vs State**

of Uttarakhand and another (supra), wherein it is specifically stated that such act on the part of the accused should have been with a specific intention of abuses which were hurled merely because of informant or victim is of a particular caste and accused has acted in such a manner. The contents of present F.I.R. are not clear and therefore, the ingredients of offences under the Atrocities Act are not attracted at all.

8. However, as regards the I.P.C. sections are concerned, certainly the contents get attracted. The ingredients of the offences in respect of the Section 354, 323, 504, 506 of I.P.C. are attracted. Section 324 of I.P.C. is added. The weapon that is stated to have been used for assault is belt, which is not an instrument of shooting, cutting, stabbing etc.

9. For the aforesaid reasons, the application deserves to be partly allowed to the extent of offences are not attracted. Hence, we proceed to pass the following order:-

O R D E R

- I. The application stands partly allowed.
- II. The proceeding in Special (Atro. S.C. and S.T.) Case No. 116 of 2024, pending before the learned Special Judge, under the

Atrocities Act, Latur, arising out of F.I.R. vide C.R. No. 231 of 2024, dated 21.06.2024, registered with Renapur police station, district Latur, for the offences punishable under sections 354, 324, 323, 504, 506 of I.P.C. and under Sections 3(1)(r), 3(1)(s), 3(2) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, stands quashed and set aside to the extent Section 324 of I.P.C. and Sections 3(1)(r), 3(1)(s), 3(2) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, as against the applicant.

III. We clarify that for rest of the sections of Indian Penal Code the matter to proceed against the applicant.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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