



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3212 OF 2023

Shriram S/o Govindrao Pawar,
Age-65 years, Occu:Agriculturist,
R/o-Naigaon (Kh.), District-Nanded.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
For Police Station, Naigaon,
Tq-Naigaon (Kh.), District-Nanded,
- 2) The District Superintendent of Police,
Police Station, Nanded,
District-Nanded,
- 3) Mashnaji S/o Shankarrao Murke,
Age-45 years, Occu:Laborer (Saal-gadi),
R/o-Atkali, Tq-Biloli,
At present R/o- Aluwadgaon,
Tq-Naigaon, District-Nanded,
- 4) Bhujang S/o Balaji Chinche,
Age-35 years, Occu:Laborer,
R/o-aluwadgaon, Tq-Naigaon,
District-Nanded.

...RESPONDENTS

...
Mr. Pratap P. Mandlik Advocate for Applicant.
Mr. G.A. Kulkarni, A.P.P. for Respondent Nos. 1 and 2.
Mr. Sandeep Sonawane Advocate h/f. Mr. S.S. Thombre
Advocate for Respondent Nos. 3 and 4.

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

DATE : 11th MARCH, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed under Section 482 of the Code of Criminal Procedure, initially, for quashing the First Information Report (for short "the FIR") vide Crime No. 104 of 2023, registered with Police Station, Naigaon, Taluka-Naigaon (Kh.), District-Nanded, for the offence punishable under Sections 143, 147, 148, 323, 342, 327, 427, 447, 504, 506 of the Indian Penal Code and under Section 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 4 punishable under Section 25 of the Indian Arms Act and by way of amendment for quashing the proceedings i.e. the Charge-sheet No.83 of 2023 pending before the Special Judge under the Atrocities Act, Biloli, District-Nanded

2. Heard learned Advocate Mr. Pratap Mandlik for the applicant, learned APP Mr. Kulkarni for respondent Nos. 1 and 2 and learned Advocate Mr. Sandeep Sonawane holding for learned Advocate Mr. S.S. Thombre for respondent Nos. 3 and 4.

3. Learned Advocate for the applicant has taken us through the FIR and the entire charge-sheet. He submits that the

informant is in fact Maratha by caste but then he involves one Bhujang Balaji Chinche, who according to the informant, is another yearly servant, in the incident and the applicant and others stated to have abused said Bhujang Chinche in the name of caste. However, if we peruse the statement of said Bhujang Chinche, who is in fact merely 18 years of age on the date of his statement, he says that since his childhood he is serving as yearly servant with one Prakash Patil Ratolikar. Said Prakash Patil Ratolikar is not at all related to the incident and therefore, the intention is very clear that any how the investigation ought to have been by the Deputy Superintendent of Police rank Officer and to give caste colour to the dispute. In fact there is dispute pending in respect of the land between the present applicant and his distant relative Mr. Rajesh Pawar, the sitting Member of the Legislative Assembly (for short "the MLA") and therefore, it can certainly be said that the informant, who himself is a yearly servant of Maratha caste, has lodged the FIR at the instigation of the said MLA. Present applicant is handicapped person, having 70% disability and therefore, it is improbable and impossible that he would have committed such crime i.e. going along with some unknown persons in the field of said MLA, snatching the Redmi Mobile, assaulting the informant and also snatching 5

gram gold ring, confining him in a room in the field and damaging the soybean crop. It would be, therefore, unjust to ask the applicant to face the trial.

4. The Application has been strongly opposed by the learned APP as well as learned Advocate appearing for respondent Nos.3 and 4. It is stated that though the informant is Maratha by caste yet another servant i.e. Bhujang Chinche is Mahadev Koli by caste, which comes under the scheduled caste and against whom the insulting words were used.

5. Here, it is to be noted that the informant, respondent No.3 Mashnaji Murke himself is a yearly servant of Mr. Rajesh Pawar, the MLA. He has stated that there are disputes in respect of ownership over the land between Mr. Rajesh Pawar and the present applicant. Informant states that the incident took place around 5.00 p.m. on 31st July 2023. The applicant went along with 4 to 5 unknown persons in the field, went near the place where the informant was taking meals, informant's Readmi Mobile was snatched, he was assaulted by fists by saying that he should allow the applicant to carry out the agricultural operations. Then he snatched 5 gram gold ring from the hand of

the informant and gave threats to kill with the help of sugarcane cutting knife. The informant was sitting inside the room in the structure which was constructed in the field and when he tried to come outside and peeped from the left side window, he found more 10 to 15 persons outside the structure and then the present applicant locked the informant in that room. Two tractors were called and damage was caused to Soybean crop worth Rs.35,000/-. The informant then says that after about half an hour to one hour, his co-yearly servant Bhujang Chinche came there. At that time the applicant asked said Bhujang Chinche as to why he has come inside the field. Even his mobile was snatched. He was assaulted by unknown person and then the applicant by giving threats to Bhujang Chinche, insulted him in the name of the caste. Thereafter the agricultural implements were taken out from the said room and the informant was told to go from that place by saying that the applicant has possession over the entire property.

6. Thus, it is to be noted that even from the bare reading of the FIR, it can be considered that at the time when the alleged incident took place, except informant, applicant and said Bhujang Chinche, nobody else was present at the spot. We rely

upon *Hitesh Verma vs. State of Uttarakhand and another, 2021 CRI. L.J. 1*, and say that in order to prove offence under Section 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the prosecution should even prima facie make out the case that the alleged insulting words were uttered in presence of an independent witness (not any relative or friend).

7. Another fact to be noted is that in view of the charge-sheet, statement of said Bhujang Chinche has been recorded and he has stated that since his childhood he was serving as yearly servant with one Prakash Patil Ratolikar. He is not claiming that he is getting any salary or amount from Rajesh Pawar. He rather says that the land belonging to his owner is adjacent to the land belonging to said Rajesh Pawar and he is on visiting terms with the informant. Thus, his statement gives another picture that he had no concern with Rajesh Pawar and his land, as well as dispute. Then question arises, as to why the accused persons would have behaved with him in such way. There was no intention at all. Said Bhujang Chinche is also not saying that another third independent witness was present at the spot who could have heard the alleged insulting words uttered by the

applicant. Therefore, even prima facie, no case is made out for attracting the offence under Section 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

8. The police have invoked now, at the time of filing of the charge-sheet, offence under Section 4 punishable under Section 25 of the Indian Arms Act. The incident is stated to have taken place at Naigaon, District-Nanded. As per Section 4 of the Indian Arms Act there should be a Notification prohibiting any arm to be carried or displayed by any person. Learned APP has placed on record the Notification dated 6th September, 1980, under the Arms Act, which states that in the exercise of powers of the Central Government under Section 4 of the Arms Act, delegated to the Government of Maharashtra by the Government of India, Ministry of Home Affairs, Notification No. GSR.1309, dated 13th October 1962, the Governor of Maharashtra has issued the said Notification. There are 12 Districts in respect of which the said Notification under Section 4 of the Arms Act was promulgated. However, in the list of Districts, there is no mention of Nanded District. Under such circumstance, when the basic ingredient was not attracted regarding the Notification by

either the Central Government or the State Government, as the case may be, the learned Magistrate ought not to have taken cognizance of the said offence.

9. Now, as regards the Sections under the Indian Penal Code are concerned, certainly the material on record in the charge-sheet make out the case as against the present applicant and therefore, we are of the opinion that the Application deserves to be partly allowed. Hence, we pass following order:-

ORDER

(I) The Application stands partly allowed.

(II) The proceedings i.e. the Charge-sheet No.83 of 2023 pending before the Special Judge under the Atrocities Act, Biloli, District-Nanded, arising out of the the First Information Report vide Crime No. 104 of 2023 registered with Police Station, Naigaon, Taluka-Naigaon (Kh.), District-Nanded, stands quashed and set aside to the extent of offence punishable under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 4 punishable under Section 25 of the Indian Arms

Act, as against applicant - Shriram S/o Govindrao Pawar.

(III) We clarify that the charge-sheet would remain in respect of Sections 143, 147, 148, 323, 342, 327, 427, 447, 504, 506 of the Indian Penal Code.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/APR25