



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.3905 OF 2022**

1. Saibai w/o Popat Vaykar  
Age: 45 years, Occu.: Household,
2. Hirabai w/o Tulashiram Vaykar  
Age: 27 years, Occu.: Household,

Both the applicants R/o. Bhenda,  
Tq. Newasa, Dist. Ahmednagar.

**.. Applicants**

***Versus***

1. The State of Maharashtra,  
Through Police Inspector,  
Shrirampur City Police Station,  
Shrirampur, Dist. Ahmednagar.
2. XYZ

**.. Respondents**

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Mr. S. S. Gangakhedkar h/f Mr. K. D. Pote, Advocate for the applicants.  
Mr. S. A. Gaikwad, APP for respondent No.1/State.  
Mr. R. P. Cheble, Advocate for respondent No.2 (Appointed).

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

**DATE : 22 APRIL 2025**

**ORDER :**

. Present application has been filed for quashment of the proceedings in Special Case No.8 of 2022, pending before the learned Special Judge, under the Atrocities Act/Additional Sessions Judge, Shrirampur, District Ahmednagar arising out of the First Information

Report vide Crime No.594 of 2021 dated 04.09.2021 registered with Shrirampur City Police Station, District Ahmednagar for the offences punishable under Sections 376(2)(n), 313, 420, 417, 323, 504, 506 read with Section 34 of Indian Penal Code, under Sections 3(1)(r)(s), 3(1)(w) and 3(2)(v), 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. S. S. Gangakhedkar holding for learned Advocate Mr. K. D. Pote for the applicants, learned APP Mr. S. A. Gaikwad for respondent No.1/State and learned Advocate Mr. R. P. Cheble, who is appointed to represent the cause of respondent No.2.

3. Learned Advocate for the applicants has taken us through the entire charge-sheet including the FIR. It will not be out of place to mention here that the present applicants are the original accused Nos.2 and 3. The separate application filed by original accused No.1 i.e. Criminal Application No.3225 of 2022 has been disposed of as withdrawn after disinclination is shown to grant any relief in favour of original accused No.1. Taking into consideration this aspect, learned Advocate for the applicants submits that the role attributed to the present applicants is then limited. Applicant No.1 is the mother of original accused No.1 and applicant No.3 is the wife of original accused No.1.

Respondent No.2, who had lodged the FIR, had made allegations against the original accused No.1 which would attribute offence under Section 376(2)(n), 313, 420, 417 of Indian Penal Code and Section 3(1)(w) of the Atrocities Act. However, as per the FIR, the present applicants i.e. mother and wife of original accused No.1 have been brought in picture only in respect of incident dated 03.09.2021. If we consider the statements in respect of that incident, then the ingredients of the offence under Sections 3(1)(r), 3(2)(v), 3(2)(va) of the Atrocities Act as well as Sections 323, 504, 504, 506 of Indian Penal Code will not be attracted. Though two persons are shown to be the eye witnesses i.e. Abhiraj Balu Tidke and Sunil Shyamkumar Sawant, who have stated about the incident in their statements under Section 161 of the Code of Criminal Procedure, yet it appears to be a concocted story. The present applicants have been involved in the matter to take revenge against original accused No.1, as these applicants are related to him.

4. Per contra, the learned APP as well as learned Advocate, who is appointed for respondent No.2, submit that taking into consideration the contents of the FIR as well as the statements of witnesses Abhiraj Balu Tidke and Sunil Shyamkumar Sawant, certainly the abuses in the name of caste were given outside the house which was a place within the public view and the informant was assaulted by hands by applicant Nos.1 and 2 as well as original accused No.1 and, therefore, those

Sections under the Atrocities Act have been rightly invoked. This cannot be the fit case where this Court should exercise its powers under Section 482 of the Code of Criminal Procedure when the entire process of collecting evidence is over and charge-sheet has been filed.

5. Here, it is to be noted from the FIR that on the date when the FIR was lodged, the informant was 22 years old girl taking education. Though she states that she was knowing and in love with original accused No.1 since 2014, she alleges that the first sexual intercourse took place between them in 2019. Earlier accused No.1 had represented her that he is a bachelor, but then the informant states that in June 2020 when accused No.1 started to avoid her, she raised suspicion and then she made inquiry about him, whereupon she got the information that he is already married and has two daughters. It appears that the relationship further continued and she has not stated at any point of time before 03.09.2021 that there was any occasion for her to meet accused Nos.2 and 3 i.e. the present applicants. How these applicants were knowing her caste is not forthcoming and then she went all of a sudden around 12.30 p.m. on 03.09.2021 to the house of the accused persons. It is then stated that all the accused told that since she belongs to a particular caste, she will not be allowed to enter their house. She was assaulted and then original accused No.1 gave her threat to kill. If there was no occasion for the applicants to meet the informant earlier and

there are no statements in the FIR that after she went around 12.30 p.m. she had disclosed her identity to the applicants and had discussions with the accused persons, how these applicants then came to know about her status, is a question which the investigation has no answer. Though two witnesses, namely, Abhiraj Tidke and Sunil Sawant states about the incident, yet the knowledge of the caste of the informant to the present applicants prior to 03.09.2021 is the crucial fact. The informant in her FIR has not stated that she was along with another girl on that day, but these two witnesses have stated that when there were quarrels going on and they went there, the accused persons were abusing a girl in the name of caste, assaulted her and then accused No.1 gave threat and thereafter, those two girls went on scooty. Now, who was the another girl who was accompanying the informant is a question. Now, as regards these two witnesses, they have not stated that they were knowing informant earlier. They have stated about the incident and then they state that later on they came to know that the informant has lodged the FIR against the accused persons. The informant is resident of Shrirampur, whereas these witnesses are resident of village Bhenda, Taluka Newasa, District Ahmednagar. Of course, there is no provision of having any identification of the informant, but still then when there were two girls to whom they had seen, then the question arises, who was the another girl. There is no attempt by the investigating officer to get

statement of that another girl recorded. Under these circumstances, when the knowledge itself is lacking and it can be seen even on the basis of *prima facie* assessment of the documents/evidence, then we take this to be a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure to quash the proceedings including the FIR against original accused Nos.2 and 3 i.e. the present applicants. Hence, the following order :-

### **ORDER**

- I) Criminal Application stands allowed.
  
- II) The proceedings in Special Case No.8 of 2022 pending before the learned Special Judge, under the Atrocities Act/Additional Sessions Judge, Shrirampur, District Ahmednagar arising out of the First Information Report vide Crime No.594 of 2021 dated 04.09.2021 registered with Shrirampur City Police Station, District Ahmednagar for the offences punishable under Sections 376(2)(n), 313, 420, 417, 323, 504, 506 read with Section 34 of Indian Penal Code, under Sections 3(1)(r)(s), 3(1)(w) and 3(2)(v), 3(2)(va) of the Atrocities Act, stands quashed and set aside as against the present applicants i.e. (i) **Saibai w/o Popat Vaykar** and (ii) **Hirabai w/o Tulashiram Vaykar**.

III) Fees of learned Advocate, who is appointed to represent the cause of respondent No.2, is quantified at Rs.5,000/- to be paid by the High Court Legal Services Sub Committee, Aurangabad.

**[ SANJAY A. DESHMUKH ]**  
**JUDGE**

**[ SMT. VIBHA KANKANWADI ]**  
**JUDGE**

scm