



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 750 OF 2024

1. Sanket Sunil Danve
Age 23 years, Occ. Education
R/o. Karnapura, Chhavani
Tq. & Dist. Chhatrapati Sambhajinagar
 2. Popat Anant Danve
Age 70 years, Occ. Retired Govt. servant
R/o. As above
 3. Suman Popat Danve
Age 60 years, Occ. Household
R/o. As above
 4. Sunil Popat Danve
Age 49 years, Occ. Agriculture
R/o. As above
 5. Yesh @ Monu Sunil Danve
Age 21 years, Occ. Education
R/o. As above
 6. Ajay Popat Danve
Age 41 years, Occ. Agriculturist
R/o. As above
 7. Jyoti Ajay Danve
Age 39 years, Occ. Household
R/o. As above
 8. Nirmala Sunil Danve
Age 43 years, Occ. Household
R/o. As above
- ...Applicants

Versus

1. The State of Maharashtra
Through Police Inspector,
Cantonment (Chhavani) Police Station
Chhatrapati Sambhajinagar

2. X.Y.Z. (Informant) ...Respondents

.....
Mr. Shrimant Munde, Advocate for the applicants
Mr. G.A.Kulkarni, A.P.P. for the respondent No.1
Mr. D.B. Zodge with Mr. D.B. Rode, Advocates for respondent No.2.
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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 18th JUNE, 2025**

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. Heard learned advocates for the respective parties.
2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing of the F.I.R. No. 12 of 2024 registered with Cantonment (Chhavani) Police Station, Chhatrapati Sambhajnagar, on 8.1.2024 for the offences punishable under Sections 143, 427 r.w. 34 of the Indian Penal Code, 1860 (for short "the I.P.C.") and under sections 3(1)(r), 3(1) (s), 3(1) (t), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "the Atrocities Act") and the consequential Special Case No. 362 of 2024 pending before the learned District and Sessions Judge, Aurangabad.
3. The informant averred in the report that she is residing at Karnapura area of Chhatrapati Sambhajnagar city and she is having business of selling flowers and coconuts. Her husband is labourer.

Her two sons Ajay, 21 years and Vijay, 20 years are residing together. Her daughter Priyanka, 23 years, is residing at Pune for education purpose.

4. The informant further averred that on 16.10.2023, there was pilgrimage at Karnapura. At about 9.00 to 10.00 a.m. all the applicants came near to her shop and on account of old dispute, they abused the informant and her son Vijay and manhandled her. They said that how did she install a shop there. Don't install a shop there. They abused the informant in the name of caste. Applicant No.1 Sanket, applicant No.2 Popat and applicant No.6 Ajay caught hold her hand and abused her in filthy language and due to pushing by applicant No.6 Ajay, she fell on the ground. They also removed and broke the blue flag kept on her shop and threw it on the ground. The applicants spat on it. They threatened that they will break down her house. They will not allow her to stay there. Nobody can do anything to them. In that pilgrimage, the applicants abused her and her family in filthy language. They caused damage to her articles. After noticing that chaos a police came there and resolved that quarrel. The applicants threatened that if she is going to lodge the report they will see her. She was frightened and therefore, she lodged the report on 08.01.2024.

5. Learned advocate for the applicants submits that perusal of F.I.R. and entire charge sheet would show that the ingredients of offences are not attracted. The incident is alleged to have taken place on 16.10.2023 but the F.I.R. has been lodged on 08.01.2024. Such huge delay has not been explained. Further, in the F.I.R. as well as in the charge sheet, the informant and the prosecution's case do not say that there was presence of any independent witness, who had heard words of insult or abuses on her caste. Therefore, with this material, it would be unjust to ask the applicants to face the trial.

6. Learned A.P.P. and learned advocate for respondent No.2 submit that since there is evidence now collected and the informant, being a member of scheduled caste, needs to be protected and trial should go on. They therefore, prayed for dismissal of the application.

7. We have perused the charge sheet. Perusal of the F.I.R. and the statements of the witnesses would show that the witnesses are relatives of the informant. The investigating officer has not recorded statement of any third person i.e. independent witness. In view of law laid down in paragraph No.14 from ***Hitesh Verma vs State of Uttarakhand and another; (2020) 10 SCC 710***, which we reproduce here as follows:-

“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 & Ors. v. State through Standing Counsel & Ors. (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."

8. In the case in hand, it is stated that the incident had taken place in a fair, that too at 9.00 to 10.00. a.m. then certainly it would have been heard and seen by independent witnesses. As far as the allegations of abusing on the caste are concerned, those are vague and no specifics as to which applicants abused the informant on her caste. The general allegations cannot constitute the said offences. But no such statement of witness is recorded. Therefore, the essential ingredient as per requirement in **Hitesh Verma (supra)** to attract the offences under sections 3(1)(r), 3(1) (s), 3(1)(t), 3(1)(w)(ii) of Atrocities Act is not fulfilled, wherein the Hon'ble Supreme court has clarified the position of law and held that such insulting words should be heard by an independent witness who is not related to informant or the aggrieved person.

9. There are allegations of forming unlawful assembly causing damage to the shop of the informant against the applicants. The witnesses have stated the fact that the applicants were gathered

there and they took out the blue colour flag. When the basic ingredients of the alleged offence under the Atrocities Act are not made out, it would be a futile exercise to ask the applicants to face the trial under the Sections 3(1)(r), 3(1)(s), 3(1)(t), 3(1)(w)(ii) of the Atrocities Act. In so far the offences under I.P.C. are concerned, the trial should go on against the applicants.

10. Under these circumstances, it would be an abuse of process of law if the applicants are asked to face the trial under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. This is a fit case where we should exercise our powers under Section 482 of the Cr.P.C. as the case is befitting the guidelines in ***Hitesh Verma (supra)***. We therefore, proceed to pass the following order:-

O R D E R

- I. The application stands partly allowed.
- II. The proceedings in special case No. 362 of 2024 pending before the learned Special Judge under the Atrocities Act/District and Sessions Judge, Aurangabad arising out of F.I.R. No. 12 of 2024 registered with Cantonment (Chhavani) Police Station, Chhatrapati Sambhajnagar, dated 8.1.2024 for

the offences punishable under Sections 3(1)(r), 3(1) (s), 3(1) (t), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 stands quashed and set aside against the present applicants.

11. Needless to state that the trial should go on for the offences registered under the Indian Penal Code, 1860.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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