



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

10 CRIMINAL APPLICATION NO. 1305 OF 2025

1. Achyutrao Dagduji Dhobale,
(Father -in-Law)
Age : 72 years, Occu.: Agriculture,
2. Narmadabai Achyutrao Dhobale,
(Mother-in-law)
Age : 69 years, Occu.: Household,
3. Krushna Achyutrao Dhobale,
(Husband)
Age: 26 Years, Occu.: Unemployed,

All Applicants R/o : Sanjay Nagar, Old Jalna,
Tq. & Dist. Jalna.

... Applicants

Versus

1. The State of Maharashtra
Through Police Inspector,
Kadim - Jalna Police Station,
Tq. and District Jalna.
2. Priyanka Rajendra Ratnaparkhe
Age : 28 years, Occ.: Private Service,
R/o. Shankarnagar, Juna Jalna.

... Respondents

...

Mr. Ashutosh C. Sisodiya, Advocate for Applicants.

Mr. G. A. Kulkarni, APP for Respondent No.1 / State.

Mr. Manish Purushottam Tripathi, Advocate for Respondent No.2.

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

DATE : 19th June, 2025.

Per Court:

. Present application has been filed for quashment of the proceedings in Special Case No.419 of 2024, pending before the learned District and Additional Sessions Judge / Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Jalna, arising out of FIR vide C.R. No.68 of 2024, registered with Kadim Jalna Police Station, District Jalna, for the offence punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2 Heard the learned counsel for the applicants, the learned APP for respondent No.1 / State and the learned counsel for respondent No.2.

3 The learned counsel appearing for the applicants; after the disinclination has been shown to grant any relief to applicant No.3 / husband, upon instructions, seeks withdrawal of his application. Under such circumstance, there is no hurdle to grant the withdrawal.

4 The application proceeded for the reliefs claimed on behalf of applicant Nos.1 and 2, who are the parents of applicant No.3. It is

not in dispute that respondent No.2 and applicant No.3 got married on 23rd January, 2024, which was a registered marriage. Prior to that, respondent No.2 was married and had a son aged 9.

5 The learned counsel for applicant Nos.1 and 2 submits that perusal of the FIR as it is will not make out the ingredients of the offence against present applicant Nos.1 and 2 as the contents are clear to show that after the marriage respondent No. 2 had not resided in the house of applicant Nos.1 and 2 for a considerable time, so as to infer that they were treating her with cruelty. Even as per the contents of the FIR, immediately after the marriage, she had not come to reside in the house of the applicants, but then she states that she had received a phone call on 8th February, 2024 from one Dnyaneshwar Dhoble, stating that she should come to his house. She had refused, but then she states that due to the insistence, she went to the house of said Dnyaneshwar. She states that at that place the present applicants, said Dnyaneshwar and other persons were present and she was abused in the name of caste by said Dnyaneshwar as well as present applicant Nos.1 and 2. However, that incident taken as it is, had taken place in the house of Dnyaneshwar, which will not attract the ingredients of Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Thereafter, she states about the incident dated 14th February 2024, which appears to

have taken place in the house of her maternal uncle Shuddhodhan Arjun Wankhede, but it is in respect of the mother of informant and it is stated that the informant was asked to come in the Court on the next day. She then states that she went to Kadim Jalna Police Station on 16th February, 2024, wherein she states that the police had intervened and sent her for cohabitation with applicant No.3. There is no documentary evidence collected during the investigation regarding the happenings in the police station. Then she states that on the same day i.e. on 16th February, 2024, she was made to stand in front of the house of the applicants for a period of an hour, and at that time, applicant No.2 had insulted her in the name of her caste. She also states about the alleged incident around 10:00 a.m. on 17th February, 2024, wherein she states that the accused Dnyaneshwar had come to the house and abused her. There is no independent witness examined by the investigating officer and all the witnesses, whose statements have been recorded under Section 161 of Cr.P.C. appear to be the hearsay witnesses. Under such circumstance, it would be an abuse of the process of law to ask applicant Nos.1 and 2 to face the trial.

6 The learned APP submits that apart from whatever has been stated in the FIR, when it is stated that in respect of incident dated 16th February, 2024, when she was asked not to touch any article in the house and she was not even offered water, it amounts to

untouchability and it is separately punishable under the Civil Rights Act. The investigation is complete. There are witnesses, whose statements have been examined. Therefore, this is not a fit case where the Court should exercise powers under Section 482 of Cr.P.C.

7 The learned counsel for respondent No.2 joins the learned APP in objecting the application and submits that the insulting treatment has been given to the informant only on the ground that she is a member of Scheduled Caste and therefore, the trial needs to be held.

8 Here, in this case, the informant in her FIR, is totally silent regarding the status of her first marriage, but it can be seen that she has disclosed about the age of the son as 9 years and when she speaks about the marriage performed under the Special Marriage Act, it contains the clause as to what is the status of the first marriage and therefore, we presume that applicant No.3 had the knowledge about the divorce of the informant before he performed marriage with her. Now, it is part of the charge-sheet also that the judgment of the Family Court, Jalna dated 4th November, 2023 has been filed, which shows that the informant and her ex-husband had filed petition under Section 13-B of the Hindu Marriage Act and thereupon, the marriage was dissolved. This has taken place prior to the marriage between the

informant and applicant No.3. However, we have taken note of the date of the judgment only with a view that there are recitals in the FIR that the love affair between applicant No.3 and the informant was since 1st March, 2021, that means when her earlier marriage was in existence. Now, at least applicant No.3 cannot take the defence that he was not aware about the earlier marriage of the informant. Ofcourse, that defence may be available to applicant Nos.1 and 2. The informant has tried to say that prior to marriage, applicant No.3 had introduced her to applicant No.2 on phone and applicant No.2 had given consent for the marriage on phone. This appears to be an improbable thing that the mother only would give the consent for the marriage in between the son and the lady and that too on phone. Another fact, which the informant herself states that after the registration of the marriage, applicant No.3 had not taken the informant to his house, but he tried to say that there is some construction activity going on in his house and he would take her after the completion of the construction. At that time, she went to stay at her mother's place. She then states that time and again she was requesting applicant No.3 to take herself to his house, but he was not taking her. That means from 23rd January, 2024, that is after the relationship of the husband and wife was officially and legally established between applicant No.3 and the informant, till 16th February, 2024, she had not gone to stay with the applicants. The alleged incident dated 8th February, 2024 was in the

house of said Dnyaneshwar, and incident dated 14th February, 2024 was in respect of informant's mother in the house of informant's maternal uncle. At no point of time, the informant states that she had gone to meet applicant Nos.1 and 2 on her own in the capacity as daughter-in-law. Then she states about her visit to police station on 16th February, 2024. The incident that had allegedly taken place in the police station, has not been stated in detail by the informant and it appears that she has kept it cryptic intentionally. But then she states that police had called them (names of the persons who were called and who remained present in the police station have not been given) and then she was sent to stay in the matrimonial home by the police with their intervention and then it is stated that she was kept standing in front of the house by the applicants and at that time, applicant No.2 by abusing her in the name of caste, allegedly told that she should not touch any article in the house. She then states that when she went inside the house for drinking water, she was not given the same. According to the learned APP, this amounts to untouchability. The first and the foremost fact to be noted is that the witnesses whose statements have been recorded under Section 161 of the Cr.P.C., have not at all stated in respect of this incident. It is also hard to believe that on the same day, almost within an hour, this kind of treatment would have been given, if at all, in presence of police, the accused persons were convinced and they had taken the informant along with them. If

she would have felt so insulted, she could have gone to police station on the same day and lodged the report. Further, she keeps silence as to where she had resided or what happened after that one hour had passed on. Whether she went back to her mother's place or she continued her stay in the matrimonial home, has not been stated. Here, it is to be noted that the informant appears to have made up her mind to involve and it is so obvious in saying that though she states about the alleged incident dated 17th February, 2024, yet no efforts were made to lodge the report immediately. On 17th February, 2024, she involves the husband also in making allegations in respect of the caste and then she states that on 19th February, 2024, applicant No.3 had forcibly taken her to the house of her mother and she has tried to make allegations that by assaulting her, he had kept physical relations with her and then forcibly left her to the mother's place. The statement of the mother of the informant has been recorded under Section 161 of the Cr.P.C. It can be seen from her statement that she herself had gone to the house of Dnyaneshwar on 8th February, 2024 to inform about the marriage between applicant No.3 and her daughter. At that time, accused Dnyaneshwar claimed ignorance and told her that he would take information and call her. She has stated that when she went to the house of said Dnyaneshwar after he had then called, the applicants and Dnyaneshwar were present and they told that since the caste of the applicants and the informant as well as the witness is

different, they would cancel the marriage. She does not say that she was insulted on account of her caste and in that connection, the further incident dated 14th February, 2024 appears to have happened i.e. where she was called at the house of her brother and at that time she was told that she should bring her daughter to the Court and they would cancel the marriage. According to her, from 16th February, 2024 till 19th February, 2024, her daughter had stayed at the house of the applicants and returned on 19th February, 2024. Thereafter, the informant had given her the story that means statement of this witness in respect of the alleged incidences, which had taken place in the house of the informant are hearsay. There are statements of Shuddhodhan Wankhede, the maternal uncle of respondent No.2 and neighbor Keral Anthony Joseph, but they are all hearsay. Therefore, except the informant's FIR, there is nothing on record. With this background, we do not find any substance in the submissions by the learned APP that the offence for untouchability is made out. The ingredients of Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are not at all attracted, as no independent witness has heard and seen the alleged insulting treatment / insulting words. We, therefore, rely upon the decision of the Apex Court in the case of ***Hitesh Verma Vs. State of Uttarakhand and another, (2020) 10 Supreme Court Cases 710.***

9 When the FIR is tainted with *mala-fides* and the stay of the informant even if taken as it is, is of only three days in the house of the applicants, then as against applicant Nos.1 and 2 the ingredients of Sections 498-A, 323, 504 and 506 read with 34 of IPC are not made out and therefore, it would be an abuse of process of law to ask applicant Nos.1 and 2 to face the trial. Only in respect of them, case is made out for exercise of powers under Section 482 of Cr.P.C. Hence, the following order is passed:-

ORDER

- I. The application is partly allowed.
- II. The application stands dismissed as withdrawn as against applicant No.3.
- II. The proceedings in Special Case No.419 of 2024, pending before the learned District and Additional Sessions Judge / Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Jalna, arising out of FIR vide C.R. No.68 of 2024, registered with Kadim Jalna Police Station, District Jalna, for the offence punishable under Sections 498-A, 323, 504 and 506 read with

34 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, stands quashed and set aside as against applicant Nos.1 and 2.

nga [SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]