

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4888 OF 2018

Vaibhav Laxman Pawar & Anr. .. Petitioners

Versus

The State of Maharashtra & Anr. .. Respondents

...

Ms.Geeta Kadam i/b Mr.Ankit Kulkarni for the Petitioners.

Mr.P.H. Gaikwad, APP for respondent no.1 State.

**CORAM: BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

DATED : 25th FEBRUARY, 2025

...

P.C:-

1 The proxy counsel appearing for the Advocate on record seek a brief accommodation which we have refused to grant, for the reason that the petition is pending before us with the interim order being passed from 24/1/2019.

With the able assistance of Mr.Gaikwad, the learned APP for the State, we have perused the complaint resulting into registration of the subject FIR invoking Section 3(1)(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short 'Act of 1989') along with Section 506 read with Section 34 of the IPC.

2 We have also perused the orders passed by this Court and in particular, order dated 24/1/2019 which came to be passed on perusal of the FIR No.11/2018 as well as FIR

No.10/2018. The Court therefore permitted the investigation to go on, but directed that the charge-sheet shall not be filed.

3 On a subsequent date i.e. 26/3/2024, the Investigating Officer was directed to file reply to the petition, and in particular, to explain the applicability of Section 3(1)(2) {wrongly referred in the order as “3(1)(ii)”} of the Act of 1989. In compliance of the said direction, the respondent no.1, Sub Divisional Police Officer, Tasgaon Division, District Sangli, has filed an affidavit and categorically stated that there was an error committed while registering the FIR online, by incorporating wrong sections of the Act of 1989, and instead of registering an offence under Section 3(1)(r)(s) of the Act, erroneously the Section was mentioned as “Section 3(1)(2).

4 Relying upon the statement of the complainant, it is specifically stated that the Act accused of would fall within the four corners of Section 3(1)(r)(s) of the Act, and it also refer to the statements recorded during the course of investigation to establish the said offence.

5 We have also perused the FIR that is lodged by the complainant and we find mention of casteist abuses with an intention to insult or intimidate the informant and since the incident had taken place within ‘public view’ the Investigating Officer has rightly explained that he has invoked Section 3(1) (r) and (s). Since Mr.Gaikwad has now informed that the investigation is complete and the charge-sheet is ready to be filed, and since we are of the considered view that at this stage, while exercising our inherent jurisdiction under Section 482 of the Code of Criminal Procedure, we cannot get into the veracity of the said statements or the material which is

collected by the prosecuting agency to be filed before the Court of which cognizance shall be taken, and as it is not open for us to conduct the mini trial, we permit filing of the charge-sheet as the material collated during the course of investigation prima facie establish the offence under the Act of 1989.

Therefore, by vacating the order 24/1/2019 and by taking into consideration that the prosecuting agency has material sufficient enough to file charge-sheet against the petitioner/accused persons, we direct the charge-sheet to file within a period of two weeks from today.

Needless to state that the petitioners are at liberty to take such steps which are available in law upon filing of the charge-sheet. Writ Petition is dismissed.

(SHYAM C. CHANDAK)

(BHARATI DANGRE, J.)