



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.394 OF 2025

Keshav s/o Ganpat Kakade and others

Vs.

The State of Maharashtra, through Police Station Officer, Police Station
Washim (Rural), District Washim and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. D. Chande, Advocate for applicants.

Mr. A. J. Gohokar, APP for non-applicant No.1/State.

Ms. Subhangi Gaike, Advocate h/f Mr. I. S. Charlewar, Advocate for
non-applicant No.2.

**CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.**

DATED : 11/12/2025

1. Present application is preferred by the applicants for quashing of the First Information Report (for short 'FIR') in connection with Crime No.505/2023 registered with Police Station Washim (Rural), District Washim for the offence punishable under Sections 323, 504 and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act of 1989') and the consequent proceeding arising out of the same bearing Sessions Trial No.22/2024 pending before the learned District and Sessions Judge, Washim.

2. The non-applicant No.2 has lodged a report against the present applicants on an allegation that there is a dispute between the informant and the present applicants on account

of agriculture land boundary. The agriculture land of the present applicants and the land of the informant is adjacent to each other. One Civil Suit is also filed by the present applicants for declaration and injunction. The informant has lodged the report on 29.11.2023 alleging that on the date of incident i.e. on 16.07.2023, when the informant along with his other family members were working in the agriculture field, the present applicants came there and applicant No.1 abused him on his caste by saying "त्यांना माझी जात चांभार आहे हे माहीती असतांना सुध्दा त्यांनी मला व माझ्या आईवडीलांना चांभारडे हो, तुम्ही लय माजलात, आमची शेती आहे. आम्ही खुना उपटुन काहीही करूत तुम्हाला काय करायचे मादरचोद हो, तुम्हाला काय शेटट उपटायचे उपटुन घ्या" and also assaulted them with fist and kick blows. On the basis of the said report, police have registered the crime against the present applicants.

3. Heard learned counsel for the applicants, who submitted that as far as the allegations against the present applicants are concerned, which is only against the applicant No.1 and there is a general and omnibus allegation as far as the applicant Nos.2 and 3. The allegation as to the assault against the applicant Nos.2 and 3 is also general in nature. This aspect is considered by the Court while allowing the appeal under Section 14-A of the Act of 1989 also. He submitted that as far as the applicant Nos.2 and 3 are concerned, no *prima facie* case is made out and they are implicated merely because they are family members of the applicant No.1. He submitted that even accepting the allegation as it is, no *prima facie* case is made out and hence the application deserves to be allowed to the extent of the

applicant Nos.2 and 3. He has withdrawn the application as far as the applicant No.1 is concerned.

4. Learned APP strongly opposed the said contentions and taken us through the entire investigation papers and submitted that there is a specific allegation as to the assault as well as the abuses on the caste. Thus, considering the offence is made out under Section 3(1)(r) of the Act of 1989 and therefore, the application deserves to be rejected.

5. Learned counsel for the complainant reiterated the said contentions and submitted that considering the *prima facie* material against the present applicants, the application deserves to be rejected.

6. On hearing both sides and on perusal of the entire investigation papers, it reveals that there was a previous dispute between the applicants and the informant. Previously also the complaints were lodged by the present informant against the present applicants. As far as the present FIR is concerned, initially the complaint as alleged only against the applicant No.1, but subsequently, while lodging the FIR, he had made allegations against all the applicants by making verbal statements. During the investigation, the Investigating Officer has also recorded the statement of the independent witnesses, who has also attributed the role of the abuses to the applicant No.1 only. Thus, it is apparent that with intent to implicate all the applicants, the subsequent statement is made by the informant alleging against all the applicants that they have abused the informant by referring the caste. Thus, considering

the entire investigation papers and the recitals of the FIR, as far as the role of the applicant Nos.2 and 3 is concerned, against whom the general allegations are levelled.

7. As far as the application of the provisions of the Atrocities Act is concerned, merely because they belong to the Scheduled Caste and the Scheduled Tribe is not sufficient to attract the provisions of the Atrocities Act. The basic ingredients to constitute the offence under Section 3(1)(r) of the Act, 1989 are:

a. Accused person must not be a member of the Scheduled Caste or Scheduled Tribe;

b. Accused must intentionally insult or intimidate a member of a Scheduled Caste or Scheduled Tribe;

c. Accused must do so with the intent to humiliate such a person; and

d. Accused must do so at any place within public view.

8. The Hon'ble Apex Court in the case of **Shajan Skaria Vs. The State of Kerala and another in Criminal Appeal No.2622/2024 decided on 23.08.2024**, wherein it is observed that all insults or intimidations to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, 1989 unless such insult or intimidation is on the ground that the victim belongs to Scheduled Caste or Scheduled Tribe. There is nothing on record to show that even *prima facie* that those allegations were made by the appellant only on account of the fact that the complainant belongs to a

Scheduled Caste. From the nature of the allegations made by the appellant, it appears that he is at inimical terms with the complainant. His intention may be to malign or defame him but not on the ground or for the reason that the complainant belongs to a Scheduled Caste.

9. Similarly, in the present case also, there is a previous dispute between the parties on account of the boundary of the agriculture field. So, the intention may be to abuse, but the intention is not to abuse merely because he belongs to the Scheduled Caste or the Scheduled Tribe. The Hon'ble Apex Court further held that the purport of the Act, 1989 is not that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status.

10. In the light of the above observations, if the allegations levelled against the applicant Nos.2 and 3 are taken into consideration, admittedly, no *prima facie* case is made out against them. In view of that, the application deserves to be

allowed partly. Accordingly, we proceed to pass following order.

ORDER

- (i) The application is **allowed partly**.
- (ii) The prayer of the applicant No.1 Keshav s/o Ganpat Kakde is disposed of as the application is withdrawn.
- (iii) The First Information Report in connection with Crime No.505/2023 registered with Police Station Washim (Rural), District Washim for the offence punishable under Sections 323, 504 and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and the consequent proceeding arising out of the same bearing Sessions Trial No.22/2024 pending before the learned District and Sessions Judge, Washim, is hereby quashed to the extent of applicant No.2 Raju s/o Keshav Kakade and applicant No.3 Vijay s/o Keshav Kakade.

The application is disposed of in the above said terms.

(NANDESH S. DESHPANDE, J) (URMILA JOSHI-PHALKE, J)