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

CRIMINAL APPLICATION (APL) NO.993 OF 2022

1. Shri. Ramdas s/o Krishna Pohane,
Aged 65 Years, Occupation : Agriculturist,
2. Shri. Ankush s/o Ramdas Pohane,
Aged 34 Years, Occupation : Private,
3. Shri. Roshan s/o Ramdas Pohane,
Aged 36 Years, Occupation : Agriculturist,
4. Shri. Sachin s/o Ramdas Pohane,
Aged 38 Years, Occupation : Private,
5. Amol s/o Ramdas Pohane,
Aged 31 Years, Occupation : Advocate,
R/o. Post: Sawarmendha,
Tahsil Saoner, District Nagpur.

.... APPLICANTS

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Saoner, District Nagpur.
2. Shri. Shailesh s/o Ashok Shende,
Aged about 30, Occupation : Pan Shop,
R/o. At : Sawarmendha,
Post Champa, Tahsil Saoner,
District Nagpur - 441113.

.... NON-APPLICANTS

Mr. Nitesh Samundre, Advocate for applicants.
Mr. N. B. Jawade, APP for non-applicant No.1/State.
Mr. Nilesh D. Anjankar, Advocate h/f Mr. M. D. Anjankar,
Advocate for non-applicant No.2.

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

DATED : 25/11/2025

ORAL JUDGMENT : [Per : URMILA JOSHI-PHALKE, J.]

1. Heard.

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2. **Admit.** Heard finally with the consent of the learned Counsel for the parties.

3. Present application is preferred by the applicants for quashing of the First Information Report (for short 'FIR') in connection with Crime No.449/2022 registered with Police Station Saoner, District Nagpur for the offence punishable under Sections 143, 341 and 506 of the Indian Penal Code (for short 'IPC') and under Sections 3(1)(s), 3(1)(r), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').

4. The crime is registered on the basis of a report lodged by the informant - non-applicant No.2, on an allegation that on 13.05.2022, when he along with his mother and sister-in-law had been to his agricultural field which he has purchased for taking the possession, at that time present applicants have formed the unlawful assembly and in pursuance of the common object abused them on their caste and also restrained them from entering into their agricultural field. On the basis of the said report, police have registered the crime against the said applicants.

5. Heard learned counsel for the applicants, who submitted that there was a civil dispute pending between the parties, bearing Special Civil Suit No. 501/2022 which is pending

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before the Civil Judge Senior Division, Nagpur, out of the said civil dispute, the allegations are levelled. He submitted that even accepting the allegation as it is at the face value, no *prima facie* case is made out. The offence under Section 341 of IPC is also not made out, as well as there is nothing on record to show that the applicants have formed the unlawful assembly and in pursuance of the unlawful assembly, they entered into the agriculture field of the informant. He submitted that as far as the application of Sections 3(1)(s) and 3(2)(va) of the Act of 1989 is concerned, merely because the informant belongs to the Scheduled Caste, the offence is not attracted against the present applicants. Moreover, the allegation levelled against the present applicants is of omnibus and general in nature. No specific allegation is levelled against the applicants. In view of that, no *prima facie* case is made out and therefore, the application deserves to be allowed and FIR deserves to be quashed. He has taken us through the entire charge sheet and pointed out from the various statements that omnibus allegations are levelled against the present applicants.

6. Per contra, learned counsel for the informant and learned APP for the State vehemently submitted that the statements of the witnesses disclose the *prima facie* material against the present applicants. The informant was in possession of the agriculture land and the present applicants came there

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and restrained him from entering into the agriculture field which sufficiently discloses that the offence under Section 341 of IPC is made out. They further submitted that the statements of the witnesses further disclose the exact act of the present applicants, who have humiliated and insulted the informant by abusing him on his caste. In view of that, the application deserves to be rejected. Learned counsel for the informant placed reliance on **Md. Allauddin Khan v. State of Bihar and Ors**, reported in **AIR 2019 SC 1910**, wherein it is held by the Hon'ble Apex Court mere pendency of civil suit between complainant and accused is not an answer to such question. Further contradictions and inconsistencies in statement of witnesses is essentially an issue relating to appreciation of evidence cannot be gone into by High Court at premature stage and order of High Court quashing complaint, unsustainable.

7. After hearing both sides and on perusal of the investigation papers, it reveals that there was a dispute between the present applicants and the informant on account of the agriculture land situated at Sawarmendha land Survey No.58 having admeasuring 1.29 H.R. and Survey No.54. The civil dispute is also pending between the parties bearing Special Civil Suit No.501/2022. As per the allegation in FIR that on 13.05.2022 when the informant was present in the agriculture field for taking the possession of the land, at that time, he was

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restrained from entering into the agriculture land and thereafter he was abused and threatened by the present applicants. During the investigation, the various statements were recorded by the investigating agency, wherein the various witnesses have alleged similarly that the present applicants, who were the members of the unlawful assembly and restrained the informant and other prosecution witnesses from entering into the agriculture field and thereby committed an offence under Section 341 of IPC. As far as the abuses are concerned “शिवीगाळ करून माझे मुलाला शैलेश याला साल्या महारा ओ तुम्ही इतके पानचट आहात काय ? दहा वेळा सांगुनही पुन्हा शेतात येता यानंतर शेतात आल्यास लाथा खावुन जाणार असे जाती वाचक शब्दात बोलुन धमक्या दिल्याने भितीमुळे आपल्या घराकडे निघुन गेलो.”

8. Section 127 of the Bharatiya Nyaya Sanhita, 2023 defines wrongful confinement which states that whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said “wrongfully to confine” that person. The exception is given under Section 339 of IPC which says that obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section. Section 341 of IPC speaks about the punishment for wrongful restraint that whoever wrongfully restrains any person shall be punished with simple

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imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

9. In the light of the above definition, it is to be seen whether the act of the present applicants covers under the definition of wrongful restraint. The allegation against the present applicant is only to the extent that when the informant and the other prosecution witnesses had been to the agriculture field, they restrained them from entering into the field. As far as the use of criminal force, there is no allegation levelled against the present applicants. Therefore, the act of the present applicants nowhere covered under the definition of wrongful restraint.

10. Learned counsel for the informant placed reliance on the decision of **Md. Allauddin Khan v. State of Bihar and Ors.** (referred supra). After going through the facts of the case, it reveals that facts of the cited case and facts of the present case are not identical.

11. As far as the ingredients of Section 3(1)(s) of the Act of 1989 is concerned, which is that if any member of Scheduled Caste is humiliated or insulted by a member whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view then he has committed an

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offence punishable under Section 3(1)(s) of the Act of 1989. This aspect is considered by 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 the Hon'ble Apex Court held 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 in the FIR which *prima facie* indicate that those allegations were made by the accused or applicants only on account of the fact that the complainant belongs to a Scheduled Caste. From the nature of the allegation made by the appellant it appears that only the reference of the caste was there. This aspect is further considered in the said judgement by the Hon'ble Apex Court and by considering the ingredients of offence it is held that it is not the purport of the Act, 1989 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,

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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.

12. In the light of the above observations, if the facts of the present case are taken into consideration admittedly, there was a dispute on account of the agriculture land and the preferential rights to purchase the said agriculture land and on that count, there was a dispute between them. As far as the allegations levelled against the applicants are concerned, no specific allegation is levelled against the applicants, but it is general and omnibus allegation levelled against them. Therefore, no *prima facie* case is made out against the applicants. As far as the offence under Section 341 of IPC is concerned, which is also not made out and therefore, the application deserves to be allowed. Accordingly, we proceed to pass following order:

ORDER

- (i) The application is **allowed**.

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(ii) The First Information Report in connection with Crime No.449/2022 registered with Police Station Saoner, Nagpur for the offence punishable under Sections 143, 341, 506 of the Indian Penal Code and under Sections 3(1)(s), 3(1)(r), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and consequent proceeding arising out of the same bearing Special Case No.509/2024 pending before the learned District Judge – 13 and Additional Sessions Judge (Special Court of Atrocity Act), Nagpur, is hereby quashed and set aside to the extent of the present applicants.

The application is disposed of.

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