



Judgment

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO.1362 OF 2021

Rajesh s/o Dasaram Lanjewar,
aged about: 36 years, occupation: agriculture,
r/o Khamari, tahsil and district Gondia. **Applicant.**

:: V E R S U S ::

1. State of Maharashtra,
through SDPO Gondia Gramin
Police Station, taluka and district Gondia.

2. Kailaskumar s/o Bhajandas Sakhare,
age about: 40 years, occupation: agriculture,
r/o Ramabai Ward No.03, Near
Keshav Khanak Seeds Co., at post Khamari,
tahsil and district Gondia. **Non-applicants.**

Shri Amol Hunge, Counsel for the Applicant.
Mrs.S.V.Kolhe, Addl.PP for the NA No.1/State.
Ms.Mohini Sharma, Counsel for NA No.2.

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

CLOSED ON : 07/11/2025
PRONOUNCED ON : 12/11/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

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1. By this application, the applicant seeks quashing of FIR bearing registration No.330/2021 and consequent proceeding arising out of the same bearing Special Case No.114/2021 under Sections 294, 504, and 506 of the IPC and under Section 3(1)(r)(s) and 3(2)(v-a) of the The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC ST Act).

2. Brief facts necessary for disposal of the application are as under:

The applicant is arraigned as accused on the basis of report lodged by non-applicant No.2 Kailaskumar Bhajandas Sakhare on allegation that on 6.7.2021, at about 11:30 am, he was standing along with his brother and other relatives and work of construction of drainage was in progress. At the relevant time, the applicant along with other co-accused and 5-6

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unknown persons came there and abused him on his caste by saying, “ए साले महेरो के मकाण, अतिक्रमण मे हे” and also abused him in a filthy language. On the basis of the said report, the police have registered the crime against the applicant.

3. After registration of the crime, the investigating officer has recorded various statements, and after completion of the investigation, submitted chargesheet against the applicant.

4. Heard learned counsel Shri Amol Hunge for the applicant, learned Additional Public Prosecutor Mrs.S.V.Kolhe for non-applicant No.1 (State), and learned counsel Ms.Mohini Sharma for non-applicant No.2 (the complainant).

5. Learned counsel for the applicant submitted that as far as application under Section 3(1)(r)(s) and

3(2)(v-a) of the SC ST Act is concerned, the same is not applicable as general allegations are levelled against all the accused. There is no specific allegation that humiliating or insulting words are used by the applicant. Even, accepting allegations as it is, except reference of the caste, there is no material to connect the applicant with the alleged offence. Mere filthy language is not sufficient to attract Section 294 of the IPC and, therefore, the offence under Section 294 of the IPC is also not made out and, therefore the FIR against the applicant deserves to be quashed and set aside.

6. In support of his contentions, he placed reliance on following decisions:

1. Karuppudayar vs. State, represented by the Deputy Superintendent of Police, Lalgudi Trichy and ors, reported in 2025 SCC OnLine SC 215; and

2. Criminal Appeal No.555/2018 (Konde Nageshwar Rao vs. A.Shriram Chandra Murty

and anr) decid3ed by the Supreme Court on 23.7.2025.

7. *Per contra*, learned Additional Public Prosecutor for the State strongly opposed the said contentions on the ground that there is specific allegation as far as the applicant is concerned. Besides abuses, the applicant has also used a filthy language which is sufficient to attract Section 294 of the IPC. In view of that, the application deserves to be rejected.

8. Learned counsel for non-applicant No.2 also endorsed the said contentions and invited our attention to various statements of the witnesses.

9. After hearing both the sides and perusing the FIR and the statements, it revealed that there was previous dispute between the complainant and the applicant on account of construction of drainage in front

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of the house of the complainant. On that count, the alleged incident appears to have taken place.

10. As far as the application in respect of provisions of the SC ST Act is concerned, allegation is that it was the applicant who abused the complainant by saying “ए साले महेरो के मकाण, अतिक्रमण मे हे”.

Perusal of the statement reveals that except reference of the caste, there are no abuses as far as the caste is concerned.

Another allegation is that the applicant has also abused him in a filthy language and, therefore, he has committed the offence under Section 294 of the IPC.

11. Section 294 of the IPC talks about obscene acts and songs. The said Section is reproduced as under for reference:

294. Obscene acts and songs.- Whoever, to the annoyance of others – (a) does any obscene act in any public place, or (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

12. The test of obscenity under Section 294(b) of the Indian Penal Code is, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences. This test has been uniformly formed in India.

13. The Hon'ble Apex court in the case of **Ranjit D.Udeshi vs. State of Maharashtra** , reported in **AIR 1965 SC 881** observed that the test of obscenity is the substantial tendency to corrupt by arousing lustful desires.

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14. As far as the present case is concerned, the lecherous elements arousing sexual thoughts or feelings are absent. None of records discloses that the alleged words used by the applicant would constitute lecherous elements. Mere abuses or mere utterance of obscene words are not sufficient, but there must be further proof to establish that the act was done to the annoyance of others, which is lacking in the present case. None of statements speaks about obscene words due to which they felt annoyed and, therefore, in absence of material, the offence under Section 294 of the IPC is not made out.

15. Coming to aspect of application of Section 3(1)(r) of the SC ST Act, basic ingredients to constitute offence under the above Section are; (a) accused person must not be a member of 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.

16. The Hon'ble Apex Court in Criminal Appeal No.2622/2024 (**Shajan Skaria vs. The State of Kerala and anr**), observed that all insults or intimidation to a member of Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, unless such insults or intimidation are on the ground that the victim belongs to Scheduled Caste or Scheduled Tribe.

It has been further observed that offence under Section 3(1)(r) of the SC ST Act is not established merely on the fact that the complainant is member of Scheduled Caste or Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other

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words, it is not the purport of the Act of 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, 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.

It has been further observed that words “with intent to humiliate” as they appear in the text of Section 3(1)(r) of the Act, 1989 are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. Not every intentional

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insult or intimidation of a member of a SC/ST community will result into a feeling of caste-based humiliation.

17. Thus, mere reference of the caste of the victim while communicating is not sufficient to attract the offence under Section 3(1)(r) of the SC ST Act.

18. The above observations are further endorsed by the Hon'ble Apex in the case of **Karuppudayar vs. State** *supra* wherein it is held that perusal of Section 3(1)(r) of the SC ST Act would reveal that for constituting an offence thereunder, it has to be established that the accused intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view.

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19. Similarly, for constituting an offence under Section 3(1)(s) of the SC ST Act, it will be necessary that the accused abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

20. Taking the allegations in the FIR at their face value, it would reveal that what is alleged is that the applicant abused the complainant by naming his caste and insulted him.

21. It is thus clear that even as per the FIR, the incident has taken place in front of the house of the complainant and except reference of the caste, there is nothing on record to show that the complainant was abused intentionally by the applicant.

22. We are, therefore, of the considered view that except reference of the caste, there is nothing on record

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to show that with an intent to humiliate the complainant, abuses were in the caste. Mere reference of the caste is not sufficient to attract the provisions of Section 3(1)(r) or 3(2)(v-a) of the SC ST Act.

23. The law relating to quashing of FIRs has been explained by the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which are required to be considered while considering applications for quashing of the FIRs, which read as under:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

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(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer

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without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

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(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

24. The power under Section 482 of the CrPC is required to be exercised sparingly. However, at the same time, the court would not be justified in embarking upon an enquiry as to the reliability or genuineness, or otherwise of the allegations made in the FIR or the complaint. The court would be justified in exercising its discretion, if the case falls under any of clauses drawn by the Hon’ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors** *supra*. The allegations in the FIR, even if they are taken at their face value and accepted in their entirety, do not *prima*

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facie constitute the offence either under Section 3(1)(r) or 3(2)(v-a) of the SC ST Act. The offence is also not made out under Section 294 of the IPC as mere abuses are not sufficient to attract the offence under the said Section.

25. In this view of the matter, the application deserves to be allowed. Hence, we proceed to pass following order:

ORDER

(1) The Criminal Application is **allowed**.

(2) FIR bearing registration No.330/2021 and consequent proceeding arising out of the same bearing Special Case No.114/2021 under Sections 294, 504, and 506 of the IPC and under Section 3(1)(r)(s) and 3(2)(v-a) of the The Scheduled Castes and the

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Scheduled Tribes (Prevention of Atrocities) Act, 1989
are hereby quashed and set aside.

Application stands **disposed of**.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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