IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

957 CRIMINAL APPLICATION NO. 3379 OF 2023

1. Nitin Sukadeo Chavan

2. Smt. Sushilabai Sukadeo Chavan

3. Dinesh Sukadeo Chavan

4. Smt. Manisha Arun Patil ....Applicants

VERSUS

The State of Maharashtra & others .....Respondents

Mr. S. S. Bora, Advocate for Applicants
Mr. S. B. Jadhav, APP for the State.
Mr. A. S.Mali, Advocate for Respondent No. 3.

CORAM : R. M. JOSHI, J.
DATE : 6th OCTOBER, 2026.

PER COURT :

1. This application is filed under Section 482 of Code of Criminal Procedure seeking quashment of First Information Report bearing C.R. No. 230/2023 dated 05.07.2023 registered with Taloda Police Station, District Nandurbar, for offences punishable under Sections 376(N), 420, 494, 294, 504 r/w 34 of Indian Penal Code and Sections 3(1)(r), 3(1)(r)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and order passed by learned Additional Sessions Judge, Shahada dated 12.09.2024 taking cognizance of the

chargesheet and issuing process against the Applicants in Sessions Case No. 52/2024.

2. After hearing learned Counsel for both sides and when this Court has shown disinclination to grant relief in favour of applicant No. 1 Nitin Sukadeo Chavan, learned Counsel for the Applicants, on instructions, seeks leave to withdraw the application qua Applicant No. 1 Nitin Sukadeo Chavan.

3. As far as other Applicants are concerned, it is his contention that even if the statement of informant in the First Information Report as well as supplementary statement are accepted to be true, still no offence either under Indian Penal Code or under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would get attracted against them. It is submitted that the alleged incident has occurred inside the house and not being witnessed by any independent person as such in view of law laid down by Hon'ble Supreme Court in case of Hiten Verma vs. State of Uttarakhand, **AIR 2020 SUPREME COURT 5584**, the offence cannot be said to have been occurred in public view. As far as offence under Section 323 of Indian Penal Code is concerned, it is submitted that in any case,

such offence ought not to have been taken cognizance of being non-cognizable offence. It is submitted that in order to apprehend Applicant No. 1, these Applicants are falsely implicated.

4. Learned APP and learned Counsel for the informant opposed grant of any relief to the Applicants by submitting that the statements made in the First Information Report are subject to the proof thereof before the Trial Court. It is their contention that this Court, under Section 482 of Code of Criminal Procedure, cannot enter into said controversy which is required to be decided by the Trial Court.

5. There cannot be any dispute with regard to the preposition sought to be canvassed by learned APP and learned Counsel for the informant with regard to the scope of Section 482 of Code of Criminal Procedure. However, on consideration of material on record as it is, if no offence is made out against the accused, this Court is required to quash the proceeding in order to prevent abuse of process of law. This view gets support from judgment of Hon'ble Supreme Court in case of State of Haryana and others Vs. Bhajan Lal and others, **1992 SCC (SUPP) 1 335**.

6. Prima facie perusal of the First Information Report, supplementary statements as well as statements of witnesses, do not indicate that the incident in question has occurred in public view. Suffice it to say that the offence in question since has not occurred in public view, in view of judgment of Hon'ble Supreme Court in case of Hitesh Verma (supra), no offence under provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against the Applicants. Admittedly, offence punishable under Section 376 of Indian Penal Code is not attracted against these Applicants nor there is case sought to be made out of common intention being shared by them with Applicant No. 1. Similarly, there is no allegation of abetment against them. Mere alleged knowledge of relationship between informant and Applicant No. 1 to these Applicants does not become offence. As far as offence punishable under Section 323 of Indian Penal Code is concerned, in absence of any other cognizable offence attributed against Applicant Nos. 2 to 4, there is no merit in continuing with the said proceeding. This Court further finds substance in the contention of learned Counsel for Applicants that the addition of these Applicants to the crime is for the sake of exerting pressure on Applicant No. 1. Having regard to the facts of the case and evidence collected during charge-sheet, it

would be unjust to make these Applicants to undergo rigors of criminal trial.

7. Hence, application is allowed qua Applicant Nos. 2 to 4 in terms of prayer clauses 'B' and 'B1'.

(R. M. JOSHI, J.)

dyb