



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 45 OF 2024

1. BHANUDAS BHAU @ BHAUSAHEB WARALE
2. SAU. MATHABAI W/O. WARALE
3. SAGAR S/O. BHANUDAS WARALE

VERSUS

1. THE STATE OF MAHARASHTRA
2. JAWAHAR S/O. HANUMANT PATHARE

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Advocate for Applicants : Mr. Narwade Narayan B.
APP for Respondent No. 1 : Mr. N.D. Raje

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CORAM : RAJNISH R. VYAS, J.
DATE : 06TH APRIL, 2026

PER COURT :

1. Inherent power of this Court are invoked by original accused challenging First Information Report No. 0397/2022, registered with Belwandi Police Station, Tq. Shrigonda, Dist. Ahmednagar, dated 10.09.2022, for the offences punishable under Sections 341, 323, 504, 506 read with 34 of the Indian Penal Code and under Sections 3 (1) (r), 3 (1) (s), 3 (2) (va), 3 (1) (za) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, submission of final report, order taking cognizance on the ground that ingredients of offences registered are not attracted.
2. Learned counsel for the applicants submitted that if the final

report is perused, it would be crystal clear that the initial dispute between the informant and the applicants was pertaining to the way. It is not even case of the prosecution, according to the learned counsel for the applicants that the initial dispute had arisen on the ground that non-applicant no. 2 was belonging to the scheduled caste category. He thus submitted that dispute was purely of civil nature, for which, the civil suit is pending between the parties and the revenue authorities. He further submitted that even order passed by the revenue authorities are subject matter of challenge in a petition which was pending before this Hon'ble High Court. He submitted that documents to that effect are already produced on record.

3. Per contra, learned APP has submitted that accused persons were aware of the fact that informant was belonging to the scheduled caste category and still he was abused in a place within a public view. According to him, the offences registered are part of the schedule attached to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter would be referred to as 'the Act of 1989' for the sake of brevity), and thus, it cannot be said that *prima facie* material is not available against the applicants. Learned counsel for the non-applicant no. 2 is absent.

4. First Information Report No. 397/2022, dated 10.09.2022, was registered with Belwandi Police Station, Tq. Shrigonda, District Ahmednagar, for the commission of offences punishable under Sections 341, 323, 504, 506 read with 34 of the Indian Penal Code, so also Sections 3 (1) (r), 3 (1) (s), 3 (2) (va), 3 (1) (za) of the Act of 1989. The informant is one Jawahar Hanumant Pathare. In all three accused are named in the FIR, who are the applicants before this Court.

5. It was alleged by informant in the FIR that he resides with his family and is an agriculturist. There is a road from Raigavhan to Betvasti but the said road was obstructed by one Bhanudas Bhau Warale and road was closed in the year 2016. Thus one Prakash Walmik Warale and other ten persons had made complaint to Tahsildar, Shrigonda, claiming the said road. In the said complaint, the informant and his father were also complainant and the witnesses.

6. According to the FIR, the said case was decided in informant's favour on 25.08.2016, but Bhanudas Bhau Warale, did not open the road till the lodgment of the FIR. It is on this count, the dispute arose between the informant and the said person.

7. It was alleged in the FIR that on 10.09.2022 at about 06:15

evening when informant was proceeding from village Raigavhan towards his house at Betvasti, at that time, present applicants who belong to Hindu Maratha caste, obstructed the informant on the public road and asked him not to go from that road. It was further alleged in the FIR that by referring the caste of non-applicant no. 2/informant, it was said that person belonging to Mahar caste should not go from the house of the applicants. The informant then questioned the accused persons regarding the same on which, accused persons told him that since he took lead in fighting the case and since informant had filed a case against them and therefore, though accused persons were knowing that the informant was belonging to Mahar caste and the accused persons from Hindu Maratha caste, they abused the informant by referring to his caste. The abuses were “तू महार आहेस. महारड्या तू परत या रस्त्यावरून दिसायचे नाही तू लय माजलाय काय ” It was also alleged that he was assaulted by means of fists and blows and was threatened not to go from the said road and, therefore, he ran away from the spot. It is this incident which resulted into registration of FIR.

8. Learned counsel for the applicants has invited my attention to the order passed by this Court in the Writ Petition No. 14420/2023 dated 30.11.2023, preferred by Bhanudas Bhau Varale, in which, by way

of interim order, status quo was directed to be maintained regarding the disputed property in question. Learned counsel has also invited my attention to the injury certificate and contended that though incident had taken place on 10.09.2022, medical examination was done on 13.09.2022, in which, external injury was not found. According to him, the version was exaggerated by the informant so that more grievous offences would be registered against the applicants.

9. At the outset, it is necessary to mention here that the dispute regarding the way was going on between the parties since the year 2016 and the parties have approached revenue authorities and finally to this Court. The Writ Petition filed by the applicants stated above is disposed of vide order dated 22.12.2025, and according to the learned counsel for the applicants directions are given to the civil court to decide an application for grant of injunction. According to him, the said application is also allowed.

10. Be that as it may. The question is whether the dispute had arisen because of the fact that the informant was belonging to the particular caste or not. The documents filed on the record, so also averments made in the FIR clearly shows that the initial dispute was not caste based and it was dispute pertaining to approach way. Though the

Investigating Officer during the course of investigation has recorded the statements of brothers of the informant, their statements can be termed as a hearsay evidence.

11. There is a one more witness by name Prakash Walmik Warale, who had accompanied the informant on the day of incident. In his statement, he has categorically stated about the incident and has also stated that the applicants had abused the informant and also assaulted him.

12. The statement of this witness and the allegations in FIR, if perused, it would reveal that so far as hurling of abuses are concerned, same was attributed to all the applicants. Thus, according to the case of prosecution also the abuses were given in chorus. In absence of assignment of specific role to the accused persons regarding utterance of abusive language, offences registered cannot be invoked, more particularly, Section 3 (1) (r), 3 (1) (s). So far as Sections 3 (2) (va) are concerned, learned counsel for the applicants has rightly relied upon the judgment passed by the Hon'ble Apex Court in case **Hitesh Verma Versus State of Uttarakhand and another**, in Criminal Application No. 707/2020, arising out of the SLP (Criminal) No. 3585/2020, more

particularly, paragraph nos. 16 to 21 :

“16. There is a dispute about the possession of the land which is the subject matter of civil dispute between the parties as per respondent No.2 herself. Due to dispute, appellant and others were not permitting respondent No.2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the Civil Court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

17. In another judgment reported as [Khuman Singh v. State of Madhya Pradesh](#), 2019 SCC OnLine SC 1104 , this Court held that in a case for applicability of [Section 3\(2\)\(v\)](#) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

“15. As held by the Supreme Court, the offence must be such so as to attract the offence under [Section 3\(2\)\(v\)](#) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was

belonging to “Khangar”-Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under [Section 3\(2\)\(v\)](#) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable.”

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under [Section 3\(1\)\(r\)](#) of the Act is not made out.

19. This Court in a judgment reported as [Dr. Subhash Kashinath Mahajan v. State of Maharashtra & Anr.](#), (2018) 6 SCC 454, issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against [the said judgment](#), this Court in a judgment reported as [Union of India v. State of Maharashtra & Ors.](#), (2020) 4 SCC 761, reviewed the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under:

“52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care of in proceeding under [Section 482 CrPC](#).”

20. Later, while examining the constitutionality of the provisions of the Amending Act (Central Act No. 27 of 2018), this Court in a judgment reported as [Prathvi Raj Chauhan v. Union of India & Ors.](#), (2020) 4 SCC 727, held that proceedings can be quashed under Section 482 of

the Code. It was held as under:

“12. The Court can, in exceptional cases, exercise power under [Section 482](#) CrPC for quashing the cases to prevent misuse of provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear, and no argument to the contrary has been raised.”

21. In Gerige Pentaiah, one of the arguments raised was non-disclosure of the caste of the accused but the facts were almost similar as there was civil dispute between parties pending and the allegation was that the accused has called abuses in the name of the caste of the victim. The High Court herein has misread the judgment of this Court in Ashabai Machindra Adhagale as it was not a case about the caste of the victim but the fact that the accused was belonging to upper caste was not mentioned in the FIR. The High Court of Bombay had quashed the proceedings for the reason that the caste of the accused was not mentioned in the FIR, therefore, the offence under [Section 3\(1\)\(xi\)](#) of the Act is not made out. In an appeal against the decision of the Bombay High Court, this Court held that this will be the matter of investigation as to whether the accused either belongs to or does not belong to Scheduled Caste or Scheduled Tribe. Therefore, the High Court erred in

law to dismiss the quashing petition relying upon later larger Bench judgment.”

13. Thus, it can be said that initial dispute is arising on account of possession of the property. As there are omnibus statements that the victim is abused on the basis of caste, *prima facie* case is not made out. There is nothing to suggest that the offence was committed by the applicants only because the informant belonged to a particular caste. Coming to the registration of offence under Section 3 (1) (za), the same speaks about obstructing or preventing a member of Scheduled Castes and Scheduled Tribes, in any manner with regard to using common property resources of area etc. including any road or any passage. At the cost of repetition, it is mentioned that question regarding entitlement of land between the informant and applicants is still sub-judiced before the civil Court and civil Court has already granted injunction in favour of the present applicants as contended by the applicants. Therefore, the rights and liabilities of the parties would be decided by the civil Court. Suffice it to say that at present there is no material on record to *prima facie* show that present applicants were involved in commission of offence under offences mentioned under Indian Penal Code also. As the ingredients of offences are not satisfied, I am inclined to allow the present application. Consequently, the following order is passed:

ORDER

- i. The proceeding of Special Case No. 123/2022, pending before the Ld. Sessions Court, Shrigonda, Dist. Ahmednagar, arising out of FIR No. 0397/2022, registered with Belwandi Police Station, Tq. Shrigonda, Dist. Ahmednagar, dated 10.09.2022, for the offences punishable under Sections 341, 323, 504, 506 read with 34 of the Indian Penal Code and under Sections 3 (1) (r), 3 (1) (s), 3 (2) (va), 3 (1) (za) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, are quashed, qua the present applicants.
- ii. Criminal Application is disposed of.

(RAJNISH R. VYAS, J.)