HARSHADA H. SAWANT
(P.A.)

# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

## CRIMINAL APPLICATION NO.3798 OF 2009

Raja Bahadur International Limited and Ors. .. Applicants

Versus

The State of Maharashtra .. Respondent

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- Mr. Harshad Palwe a/w. Mr. Mayur Thorat, Advocates for Applicants.
- Ms. Anuja S. Gotad, APP for Respondent No.1
- Mr. Ajit Kocharekar, Advocate for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 22, 2026

P.C.:

**1.** Heard Mr. Palwe, learned Advocate for Applicants; Ms. Gotad, learned APP for Respondent No.1 and Mr. Kocharekar, learned Advocate for Respondent No.2.

**2.** This Criminal Application seeks quashing of Special Case No.2857 of 2008 pending before the Judicial Magistrate First Class No.3, Pune (for short 'JMFC No.3, Pune') and discharge of the Applicants therefrom. Application was filed on 17.08.2009. Interim relief was granted by this Court. Application is heard finally.

**3.** I have heard Mr. Palwe, learned Advocate for Applicants; Ms. Gotad, learned APP for Respondent No.1 and Mr. Kocharekar, learned Advocate for Respondent No.2 and with their able assistance perused the record of the case.

**4.** Briefly stated, on 15.07.2008 Complainant filed a Complaint before the JMFC No.3, Pune alleging commission of offences under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short '**the Atrocities Act**') read with Sections 34, 109 and 120B of the Indian Penal Code, 1860 (for short '**IPC**'). On 06.11.2008, the Complainant's verification was recorded by the JMFC and on 27.07.2009, the order for issue of process against Applicants under the said provisions was passed. By virtue of the said order, Special Case No.2857 of 2008 is being prosecuted against the Applicants to which they have taken an objection and are seeking quashing of the same.

**5.** On the issue of facts, Complainant claims to be Watandar rather a descendant of the original Watandar with regard to the land occupied by the Applicants. The subject matter of the Complaint is Mahar Watan land which was the status of the subject property prior to 1891 leased by the then Mahar Watandar under the provisions of the Bombay Hereditary Offices Act, 1874 (for short '**the said Act**') to the predecessor-in-title of the Applicants. Since the said land was leased in breach of the provisions of Section 5 of the said Act, it was resumed by the British Government in the year-1891 by giving the Mahar Watandars separate cash allowance which became their Mahar Watan property.

**6.** The subject land was thereafter granted by the then British Government to the Poona Silk and Cotton Manufacturing Company Limited who is the predecessor-in-title of Applicant No.1 on ordinary survey tenure (free hold) in the year-1891. In the year 1928, the British Government abolished the Mahar and Patilki Watans which governed the subject property which was in possession of Applicant No.1 at the then time.

**7.** On 20.01.1959, the Bombay Inferior Vatans (Abolition) Act, 1958 came into force providing for abolition of inferior Watans which was not applicable to the subject land. However in the year-2006 for the first time without joining the Applicants, Complainant filed Writ Petition before the Division Bench of this Court seeking a direction to the Competent Authority i.e. Collector, Pune to consider Complainant's Application for re-grant of said land as per the provisions of Bombay Inferior Villages Vatans (Abolition) Act, 1958 in accordance with law.

**8.** On 29.06.2006, Division Bench of this Court passed order directing the Collector to look into the matter and decide the claim as to whether the Complainant was entitled to re-grant in accordance with law. On 30.04.2007, Collector, Pune disposed of the Application to re-grant on the ground that the said land was already granted to Applicant No.1 and in view of provisions of Section 20 of Maharashtra

Land Revenue Code, 1960 (for short '**MLRC**') no enquiry was contemplated. It is pertinent to note that the Collector is the competent and exclusive authority under Section 3 of the Bombay Inferior Villages Vatans (Abolition) Act, 1958 to decide the abolition.

**9.** Next, it is seen that notwithstanding this, Complainant challenged the order of Collector in Appeal before the Additional Commissioner. It is *prima facie* seen that the Complainant also filed a Writ Petition before this Court, being Writ Petition No.1923 of 2008 wherein order dated 21.07.2008 was passed and the Complainant admitted before the Court that the challenge to the status of the subject land being non-watan land would be restricted only with regard to the provisions of the MLRC.

**10.** It is pertinent to note that the Collector has clearly recorded that the subject land is not a "Watan land" and the Complainant has not challenged this finding any further. This proceeding was infact presented to the Registry at the time of seeking cognizance of issuance of process but it has not been considered at all.

**11.** The record further shows that the Complainant was not satisfied at this and then filed Civil Suit No.11002 of 2008 seeking declaratory reliefs with regard to the subject land. In that Civil Suit on 20.10.2008, Suit plaint filed by the Complainant was rejected under the provisions of Order VII Rule 11 (d) of the Code of Civil Procedure,

1908 (for short '**CPC**'). Against the said order of dismissal, Complainant filed First Appeal before the Additional District Judge who by order dated 17.01.2009, returned it to be presented before the appropriate Court of law.

**12.** This particular fact about the Complainant having filed the civil Suit unsuccessfully, was infact suppressed by Complainant before the JMFC while seeking the order of issuance of process. This is a very important circumstance.

**13.** Briefly stated, Complainant claims to be Mahar Watandar and claims ownership of the subject land on the basis of operation of law and has filed the present Complaint against the Applicants by claiming that the Applicants belongs to the Scheduled Caste and by virtue of re-grant not being done in favour of the original Watandar, who is now represented by the Complainant as legal heir, there is violation of the provisions of the Atrocities Act for which the Applicants should be prosecuted.

**14.** Learned Advocate for the Applicants would submit that if the Complaint is seen, then as per paragraph No.16 of the Complaint it is contended that Predecessor of the Complainant had exclusive right to seek re-grant of the subject land provided it was watan land and it is the Complainant's case that more than 60 years ago, his predecessor made an Application seeking re-grant but predecessor-in-title of the

Applicant No.1 succeeded in seeing to it that the said watan land was not re-granted to the predecessor-in- title of the Complainant and since then by virtue of the grant given to them the Applicants' predecessors and now the Applicants have been wrongfully occupying and interfering with the subject land and the Complainant has a legal right over the subject land.

**15.** According to the Complainant because of this reason, the provisions of the Atrocities Act get attracted. He would submit that on the face of record such a submission is *prima facie* preposterous as the Complainant never invoked the right more than 60 years ago in such a fashion by filing the criminal complaint and invoking the provisions of the Atrocities Act against the Applicants. He would submit that the issue and *lis* between the parties is nothing but a purely civil dispute otherwise and filing of the criminal complaint is nothing but a counterblast because the Complainant has been unsuccessful in prosecuting the civil suit and immediately thereafter, the present Complaint has been filed.

**16.** Next he would submit that in the Complaint Applicant No.1 and all other Applicants are shown as persons or members not belonging to the Scheduled Caste or Scheduled Tribe and therefore, if they are occupying the subject land which is Mahar Watan land, then it is alleged that they have committed violation of the provisions of the

Act and are therefore required to be proceeded within the present complaint. Here the learned Advocate would submit that the question whether Applicants are wrongfully occupying or otherwise cannot be decided by the Criminal Court without substantiating title and further that the Complainant has never claimed to be the owner of the subject land or even claims that Applicants are occupying the subject land wrongfully.

**17.** Notwithstanding the fact that Applicants have a vallid grant issued in favour of their predecessor-in-title in accordance with law and subsistence of the said land governs the title of Applicants, he would submit that the dispute in the present case is on the face of record a civil dispute for entitlement and case of the Complainant is therefore a *prima facie* vexatious and frivolous Complaint without any basis having been filed after an unsuccessful campaign in the Civil Court as also in the Revenue forum in accordance with law. Hence, it is submitted that Application be allowed.

**18.** ***PER CONTRA***, learned Advocate for Respondent No.2 would however submit that no interference is required under the provisions of Section 284 of the Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') since learned JMFC, Pune in the impugned order has come to a categorical conclusion that based on the statements and averments made in the Complaint and the pleadings placed before the Court a

*prima facie* case is made out and on that ground the Applicants are not member of the SC or ST community and they occupying the watan land which otherwise comes to the benefit of the Complainant.

**19.** While drawing attention to the affidavit-in-reply appended at page Nos.195 to 446 as also the additional affidavits which are appended from page Nos.447 to 512 he would contend that the issues involved in the present case are factual and legal and are of such a magnitude that *prima facie* material has been placed before the Court and therefore the Complaint cannot be dismissed for the order of taking cognizance and issuing the process cannot be quashed without trial. He would submit that in view of the principles laid down by the Supreme Court in the cases of ***State of Harayana vs Bhajan Lal***[1]; ***Janata Dal Vs. H. S. Chowdhary***[2]; ***Ranveer Upadhyay & Anr. Vs. State of U.P. & Anr.***[3]; ***State of U.P.& Anr. Vs. Akhil Sharda & Ors.***[4]; the present Complaint needs to be proceeded and concluded by an effective trial since the land is occupied by the Applicants is original Mahar Watan land. He would submit that in paragraph No.6 of the Complaint, the Complainant has stated that the Complaint is with respect of Watan land which belongs to the predecessor-in-title of the Complainant and therefore once this fact is established then occupation of the said land by Applicants who are not members of the SC and ST community

1 1992 AIR 604
2 AIR 1993 Supreme Court 892
3 Special Leave Petition (Cri.) No.2953 of 2022.
4 Criminal Appeal No.840 of 2022.

needs be probed and investigated in the present Complaint.

**20.** He would submit that as stated in the Complaint during the lifetime of the great grandfather of Complainant, he was one of the party namely Watandar to the Kabuliyatnama dated 31.10.1891 on the basis of which the Collector, Pune in exercise of his power under the Watan Act had given the land on lease to the Poona Silk and Cotton Manufacturing Company as tenant of the said land who is the predecessor-in-title of Applicant No.1. He would submit that in that view of the matter, the successor-in-title of the original Watandar is therefore entitled to seek re-grant of the subject land and once that is not done and the land is occupied by persons who are not belonging to the SC and ST community, the present Complaint is maintainable and required to be taken to its logical end.

**21.** He would submit that in the year-1959, record shows that the predecessor-in-title of Complainant received rent of Rs.100/- which was fixed in the Kabuliyatnama dated 31.10.1891 while assigning lease-hold rights to the predecessor-in-title of the Applicant No.1. He would submit that once that is the position then under the Bombay Inferior Vatans (Abolition) Act, 1958, Complainant would be entitled to re-grant of the said land. He would submit that the Complaint has been filed for wrongful occupation of the Watan land as contemplated under Section 3(iv) of the Bombay Inferior Vatans (Abolition) Act,

1958 and it is committed by a person who does not belong to the Scheduled Caste or Scheduled Tribe community. He would submit that though the Civil Suit was filed by the Complainant and the Revision Application with regard thereto is still pending before the Civil Court. He would submit that Applicant No.1 and its Directors have illegally altered the revenue record claiming to be the owner of the subject land and have obtained a false title certificate from the Department of Town Planning and therefore, they have committed an offense of transfer of land belonging to members of Scheduled Caste and Scheduled Tribe and violated the provisions of the Bombay Inferior Vatans (Abolition) Act, 1958 and therefore the Complaint is maintainable.

**22.** He would submit that the Complainant belongs to the Scheduled Caste which is an oppressed class and therefore, provisions of the Atrocities Act should be liberally considered and the present prosecution should be carried to its logical end in that view of the matter. Hence, he would submit that the Application be dismissed.

**23.** I have considered the submissions advanced by both the parties and perused the record of the case effectively.

**24.** *Prima facie*, it is seen that it is the Complainant's own case that the Complainant has filed the suit proceedings unsuccessfully but on the return of Suit plaint, the Revision Application is pending before the concerned appropriate Civil Court/forum. Once that is the position

and Complainant has accepted the fact that Civil Suit proceedings were indeed adopted then, the said proceedings will determine the title and entitlement of the Complainant to the subject land.

**25.** It is seen that the fact that the Complainant adopted Civil Court proceedings was admittedly suppressed before the learned JMFC by the Complainant. In the Complaint which is filed it is seen that there is not a whisper about the said Civil Suit proceedings. The Complaint is filed immediately after the Complainant's Civil Suit was rejected under Order VII Rule 11 of the Code of Civil Procedure, 1908 by the Civil Court.

**26.** Next it is seen that the Complaint alleges allegation and commission of atrocities against the Applicants. However, there are no specific allegation or dates and factual circumstances mentioned attributing any specific role to the Applicants or their Officers and the reference to the said Atrocities Act is therefore *prima facie* vagure, improper and unsubstantiated altogether. The only allegation about atrocity that can be seen from the Complaint is that according to Complainant, atrocity has been committed from generation to generation from 1891 onwards by virtue of the subject land having been occupied by the predecessor-in-title of the applicant No.1 and subsequently by the Applicant No.1 thereafter. This kind of charge cannot be sustained at all as it is on the face of record unsustainable.

The subject land is validly granted by way of a grant (lease) to the predecessor-in-title of Applicant No.1.

**27.** According to the Complainant since the the subject land has been occupied wrongfully for the last more than 110 years therefore, the provisions of Atrocities Act are attracted. It is *prima facie* seen that nothing prevented either the Complainant or his predecessor-in-title to file Applications for re-grant which they did not file. In fact, Complainant's prosecution seeking re-grant of the subject land is now pending before the Civil Court / Competent Authority.

**28.** In that very matter, reliance of the Applicants on the provisions of the Atrocities Act and more specifically Section 3 thereof *prima facie* does not show any violation thereof. Sections 3 (iv) pertains to wrongful occupation or cultivation of land owned by or allotted to or modified by any Competent Authority to be allotted to or get land allotted or land get transferred. It is *prima facie* seen that once it is Complainant's case, that he is not the owner of the land but on the basis of his predecessor-in-title prior to the year 1891, being Watandar of the subject land, he has filed the present complaint after more than 134 years, the provisions of the above Section 3(iv) cannot be attracted.

**29.** Next, the Applicants have relied upon Section 3(1)(v) which pertains to wrongful dispossession of a member or interference with

the enjoyment of rights over any land premise. Even these provisions are not *prima facie* attracted primarily because the subject land was duly granted to the predecessor-in-title of Applicant No.1 by the then British Government in the year 1891 by a Kabuliyatnama / Grant which is in subsistence. Once that is the case, then there is no question of Applicants having dispossessed the Complainant or his predecessor-in-title or having interfered with enjoyment of their right in the subject land. *Prima facie* reading of the Complaint shows that a bald allegation of playing fraud has been made against the Applicants without giving any specifics whatsoever.

**30.** The Complaint which has been filed by the Complainant *prima facie* lacks provisions of the Atrocities Act as alleged by the Complainant. Further reading of the Complaint *prima facie* shows clear title in favour of Applicants even according to Complainant in the averments made in paragraph Nos.16 and 18 thereof.

**31.** Once this is the admitted position that Complainant's predecessors have never been in occupation of the subject land since the year 1891 and it is the Applicant No.1 Company and its predecessor-in-title who have been in occupation of the subject land, then in that case the allegation of wrongful occupation cannot be sustained.

**32.** Once that is the position, then the provision of the Atrocities

Act cannot be attracted at all. In view of the Kabuliyat in the year 1891 or the liquidator state of the subject land being predecessor-in-title of the Applicant No.1 in the year 1930 or the purported right of re-grant which can be approved to the predecessor-in-title of the of the Complainant by virtue of the Watan Abolition Act 1958 but that right having expired in the year 1965, the Complainant as a legal heir cannot maintain the present case after 134 years. In any event, the entire claim of the Complainant is purely civil in nature which is required to be governed by the Civil Court in accordance with law which Complainant is prosecuting. Filing of the criminal Complaint is therefore clearly not maintainable.

**33.** What is important is when order of issuance of process was issued by the Magistrate the aforesaid material was required to be looked into. It is seen that the said material has not been considered at all. It is the categorical case of the Complainant in paragraph No.16 of the Complaint that the subject land does not belong to Complainant and it is not owned by the Complainant or his predecessor-in -title.

**34.** Once there is such a categorical admission to this extent then the provision of the Atrocities Act can never apply. It is seen that in the Revenue proceedings after rejection of the Complainant's claim as Watandar by the Collector, vide order dated 30.04.2007, this Hon'ble Court in the Writ Petition filed by Petition on 21.07.2008 allowed the

Complainant to file Appeal before the appropriate Authority under the Watan Abolition Act 1958 which was never pursued by the Complainant thereafter.

**35.** Once that is the case, then the Collector's order dated 30.04.2007 rejecting the Complainant's claim as Watandar becomes absolute and final. The proceedings in the Civil Suit No.1103 of 2008 seeking declaration of title and certificate having been rejected by order dated 20.10.2008 and by the Appeal Court by a subsequent order dated 17.01.2009 itself demolishes the case of the Complainant.

**36.** It is clearly seen that the Complainant has suppressed this entire information regarding rejection of his Civil Suit during verification of the Complaint before the learned JMFC when the order of issue of process was passed. This *prima facie* goes against the Complainant's case. Further Section 3 of the Atrocities Act is attempted to be levied against the Applicant No.1 which is a Company, and not an individual, which is *prima facie* unsustainable in law.

**37.** In view of the aforesaid observations and findings, I do not have the slightest doubt in my mind that the present Complaint filed by the Complainant after a hiatus of more than 134 years and seven decades after the enactment of the Bombay Inferior Watan (Abolition) Act, 1959 on the ground that he is not the owner of the subject land neither his predecessor-in-title was the owner of the subject land but

since the subject lands were Watan lands prior to 1891, cannot be maintained.

**38.** The entire claim of the Complainant is purely civil in nature and filing of the present Complaint in the manner and form in which it has been filed is nothing but a sheer abuse of the due process of law exercised by the Complainant.

**39.** Hence in view of the aforesaid facts observations and findings, the Application stands allowed in terms of prayers 'a' and 'b' which read thus:-

> "*a. Record and Proceedings in Special Case No. 2857 of 2008 before the Learned Judicial Magistrate, First Class No.3, Pune at Pune be called for;*
>
> *b. After perusing the same, the proceedings in Special Case No. 2857 of 2008 before the Learned Judicial Magistrate. First Class No. 3, Pune at Pune against the present Applicants be quashed and they be discharged of all the charges.*"

**40.** It is directed that all steps taken by the concerned Court to proceed with the aforesaid Special Case No.2857 of 2008 are quashed and set aside.

**41.** Criminal Application No.3798 of 2009 is allowed and disposed.

H. H. SAWANT

**[ MILIND N. JADHAV, J. ]**

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