

(2017) 05 BOM CK 0171
In the Bombay High Court
Case No : 1274 of 2016

Anup and Ors.

APPELLANT

Vs

The State of Maharashtra and Anr.

RESPONDENT

Date of Decision : 02-05-2017

Acts Referred:

[Scheduled Castes and Scheduled Tribes \[Prevention of Atrocities\] Act, 1989](#), Section 3[1], Section 3[1], Section 3[1], Section 3[1], Section 3[8], Section 3[8], Section 3[8], Section 3[9], Section 3[9], Section 3[10]

Citation : (2017) 05 BOM CK 0171

Hon'ble Judges : S.S. Shinde, K.K. Sonawane

Bench : DIVISON BENCH

Advocate : V.S. Bedre, S.P. Deshmukh, N.N. Shinde

Judgement

1. This Application is filed with prayer to quash and set aside the First Information Report vide Crime No.118/2016 registered with Rahuri Police Station, Rahuri, for the offences punishable under Sections 3 [1], [8], [9], [10] of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989 [for short "Act of 1989"], and Section 506 r/w.34 of the Indian Penal Code and also the charge-sheet arising out of the said crime.

2. The learned counsel appearing for the applicants submits that, even if the allegations in the FIR are taken at its face value and read in its entirety, an alleged offences have not been disclosed, and therefore, the continuation of the further proceedings would be abuse of process of the Court. It is submitted that, respondent no.2 has lodged the First Information Report out of vengeance, since his services have been terminated by the management. It is submitted that, the Division Bench of the Bombay High Court, Bench at Nagpur, in the case of State of Maharashtra v. Shashikant s/o. Eknath Shinde in Criminal Application No.258 of 2013 [APL], decided on July 2, 2013, has taken a view that when there is grievance about promotion or any other grievance in relation to the services, filing the First Information Report invoking the provisions of the Scheduled

Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989, is not the remedy and aggrieved persons can approach appropriate Forum for redressal of the grievance. It is submitted that, in the present case, already respondent no.2 has resorted to the appropriate remedy for redressal of his grievance, challenging the termination of his services, and therefore, the FIR deserves to be quashed.

3. It is submitted that, the material collected by the Investigating Officer during the course of investigation would clearly show that, the applicants have not committed any offence which would attract the provisions of the Act of 1989. It is submitted that, there is nothing on record to show that, an alleged incident was taken place at public place with an intent to humiliate respondent no.2. The complaint filed with mala fide intention with ulterior motive, and therefore, the FIR and the charge-sheet deserve to be quashed. In support of the aforesaid contention, he also placed reliance on the judgment of the Supreme Court in the case of *Gorige Pentaiah v. State of A.P. and ors.* AIR 2008 SC [Suppl] 634.

4. On the other hand, the learned APP appearing for the respondent-State invites our attention to the allegations in the FIR and also the material collected by the Investigation Officer during the course of investigation and submits that, an alleged offences are clearly disclosed, and therefore, the prayer of the applicants to quash the FIR may be rejected.

5. The learned counsel appearing for respondent no.2 invites our attention to the allegations in the FIR and also accompaniment of the charge-sheet and submits that, an alleged offences have been disclosed, and the Investigation Officer, during the course of investigation, has collected the sufficient material and on the basis of it, trial can proceed. The learned counsel submits that, when the alleged offences under the provisions of the Act of 1989, are disclosed, and if those allegations get support from the statement of the witnesses, in that case, the prayer for quashing the FIR and the charge-sheet deserves to be rejected. It is submitted that, whether an alleged offence has taken place in the public view or otherwise is a matter of appreciation of the evidence. In support of the aforesaid contentions, he placed reliance upon the following judgments; in the case of *Vilas Pandurang Pawar and another v. State of Maharashtra and others* [2012] 8 SCC 795, in the case of *Bajirao Narayan Deshmukh & Ors. v. State of Maharashtra & Ors.* 2015 [3] Bom.C.R. [Cri.] 190, in the case of *Vasant Kakasaheb Thorat v. The State of Maharashtra and others* in Criminal Writ Petition No.333 of 2006 decided on 3rd July, 2014, in the case of *Gorige Pentaish v. State of A.P. and Ors.* AIR 2008 SC [Supp.] 634, in the case of *Radhey Shyam Khemka and another v. State of Bihar* [1993] 3 SCC 54, in the case of *State of Maharashtra v. Salman Salim Khan and another* AIR 2004 SC 1189, in the case of *State of Punjab v. Dharam Vir Singh Jethi* 1994 SCC [Cri.] 500, in the case of *State of Orissa and another v. Saroj Kumar Sahoo* [2005] 13 SCC 540 and in the case of *Bachu Das v. State of Bihar* 2014 [3] SCC 471.

6. We have given careful consideration to the submissions of the learned counsel

appearing for the applicants, learned APP appearing for respondent-State and the learned counsel appearing for respondent no.2. With their able assistance, we have carefully perused the allegations in the FIR and also the charge-sheet, accompaniments of the charge-sheet. Upon careful perusal of the allegations in the FIR, an ingredients of the alleged offences have been attracted and prima facie an alleged offences have been disclosed. Upon careful perusal of the material collected during the course of investigation by the Investigating Officer, we find that, the statement given by one Satyadra Wamanrao Teltumbade lends support to the allegations in the FIR. It is not desirable to elaborate the reasons on merits of the contention raised by the parties, since the same may cause prejudice to the interest of the parties.

7. In that view of the matter, it is suffice to say that, prima facie an alleged offences are disclosed and also the Investigation Officer has collected the material during the course of investigation. In that view of the matter, we are not inclined to entertain the prayer for quashing the FIR and the charge-sheet, hence the application stands rejected.

8. An observations made herein above are prima facie in nature and confined to the adjudication of the present application. This order will not preclude the applicants from availing of an appropriate remedy for filing the application for discharge. Application dismissed.