

(2011) 08 BOM CK 0065
In the Bombay High Court
Case No : Criminal Application No. 70 of 2011

Bhaskar Gotephode

APPELLANT

Vs

The State of Maharashtra and Shri Naktu Bansod

RESPONDENT

Date of Decision : 10-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 169, 173, 482
Penal Code, 1860 (IPC) — Section 294, 34, 379, 504, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(X)

Citation : (2012) BomCR(Cri) 846

Hon'ble Judges : A.P. Bhangale, J

Bench : Single Bench

Advocate : R.J. Kankale, for the Appellant; M.K. Pathan, Assistant Public Prosecutor for respondent No. 1 and D. Dhondarkar, for the Respondent

Final Decision : Dismissed

Judgement

A.P. Bhangale, J.—Heard the learned Counsel for the respective parties.

2. By this application u/s 482 of the Code of Criminal Procedure, the applicant has prayed for to quash and set aside the F.I.R. No. 3011 of 2011 lodged u/s 3(1)(X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Act") r/w. Sections 294 and 504 of the Indian Penal Code.

3. It appears that the applicant and Respondent No. 2 are members of Village Panchayat, Barad Kini, Tq.Bramhapuri, District Chandrapur. Respondent No. 2 is up-sarpanch. According to the applicant, there is political rivalry between the applicant and Respondent No. 2 and Respondent No. 2 had cut down "Gulmohar tree" in the School premises and had carried wood by bullockcart. There fore, the applicant approached the Police Patil, who seized the wood and the bullockcart under Panchanama dt.23.1.2011 at about 11.00 A.M. It is further case of the applicant that F.I.R. No. 8 of 2011 was lodged in respect of the incident for the

offence punishable u/s 379 r/w. Section 34 of the Indian Penal Code at about 3.00 P.M. on 23.1.2011, while Respondent No. 2 lodged bogus complaint as a counter blast to the complaint of theft. Respondent No. 2 lodged a complaint on 24.1.2011 at about 16.20 hours u/s 3(1)(X) of the Act. This contention has been opposed by the learned A.P.P. on the ground that the "Gulmohar tree" which was cut from a public place was being carried to the building where the Healthy Diet Scheme was run on 21.1.2011, at about 11.00 A.M., when the incident occurred and the report was lodged in respect of the incident at Police Outpost, Mendhki on 23.1.2011 at about 1.10 p.m. by Respondent No. 2. This was the complaint under the Act in question, which was inquired into and pursuant to the inquiry, F.I.R. was registered at Brahmapuri Police Station, which was about 15 kMs. away from the Outpost, at about 4.20 P.M. on 24.1.2010. According to the Respondent/State there was a counter case registered at the instance of the applicant for the offence punishable u/s 379 of the Indian Penal Code vide F.I.R. Crime No. 8 of 2011 for the alleged theft, which was registered on 23.1.2011 at about 3.00 p.m., on the basis of report lodged by Bhaskar Haribhau Gotephode (applicant in the present case).

4. The learned Advocate for Respondent No. 2 submitted that the complaint which was lodged by Respondent No. 2 is prior to the complaint of theft which was lodged by the applicant as a counter blast to the complaint lodged by Respondent No. 2 and there was No. incident of theft at all. According to Respondent No. 2, there was representation from ninety-five villagers regarding nuisance caused by falling leaves of Gulmohar tree over water well and pursuant to the meeting convened by Sarpanch, a resolution was passed, as a result of which, it was decided to cut the Gulmohar tree and Respondent No. 2, who was Up-Sarpanch, in his Official capacity and in good faith, had to carry the wood by bullockcart to the building wherefrom the Health Diet Scheme is run. On 31.1.2011, the Village Panchayat of Barad Kini had convened a meeting regarding the action of cutting of the Gulmohar tree and carrying the woods to the building from where the Health Diet scheme is run so as to use the wood for cooking food and to note necessary entries in respect of the action of cutting the tree at the instance of the villagers.

5. In view of the contentions and under the circumstances afore-mentioned, prima facie, there can be No. reasonable and just ground for to quash the F.I.R., as prayed for by the applicant. Inherent powers u/s 482 of the Code of Criminal Procedure cannot be used for to scuttle the investigation when it is at the crucial stage as also to prevent investigation by the police. They have to take it to its logical conclusion of filing report to the Magistrate concerned either u/s 169 or 173 of the Code of Criminal Procedure on the basis of the material collected during the investigation. For all these reasons, I am not inclined to interfere with the F.I.R. registered under Crime No. 3011 of 2011, u/s 3(1)(X) of the Act r/w. Sections 294 and 506 of the Indian Penal Code. No. case is made out for interference to grant the prayer as made by the applicant herein. Hence, the application is dismissed. No. order as to costs.