
(2011) 08 BOM CK 0215

In the Bombay High Court

Case No : Criminal Application No. 269 of 2011

Gulabrao Kadwe and Others

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 09-08-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x)

Citation : (2012) BomCR(Cri) 50

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

Bench : Single Bench

Advocate : S.V. Sirpurkar, for the Appellant; A. Parihar, Assistant Public Prosecutor and Ms M.M. Ghatode, for Respondent No. 2., for the Respondent

Final Decision : Allowed

Judgement

Bhangale A.P., J.—Admit. Taken up for final disposal forthwith by consent of parties. Heard learned Counsel for the parties. By this application, applicants have sought for quashing and setting aside FIR vide Crime No. 3019/11 registered with Police Station, Karanja for the offences punishable u/s 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under sections 323 and 506 of the Indian Penal Code.

2. Applicant No. 4 is Head-master of Jagdamba Vidyalaya which is run by Saraswati Mata Vidya Prasarak Mandal, Thanegaon. There are two groups in the said Society and there is lot of infighting between the members. Even though applicant No. 4 was appointed as a Head-master, he was not permitted to join by the rival group. Applicant No. 4's appointment was on the basis of directions given by this Court in Writ Petition No. 2884 of 2010. Applicant No. 4 with great hardship succeeded to join his post and after he joined, applicants exposed the rival group members who had committed illegalities. It was noticed by the applicants that respondent No. 2 was paid for the construction work which was

not done by him. Applicants through applicant No. 4 started recovery proceedings against respondent No. 2. It is further stated that complainant along with Sudhakar Ghode and others had thus grudge against applicant No. 4. It is submitted that said Sudhakar Ghode was booked under the Prevention of Corruption Act and was taken into custody. Said Sudhakar Ghode was time and again threatening applicant No. 4 who was working under Vice President Tukaram Dongre. Applicant No. 4 lodged report against him on 19.2.2011 apprehending that he may implicate him in a false case. Expressing the same apprehension, applicants had lodged another police report dated 22.2.2011. It is further submitted that since members of rival group were all the while disturbing applicant No. 4, he moved an applicant No. 4 to Tanta Mukti Samiti of which applicant No. 1 is President and applicants No. 2 and 3 are members. On 7th March, 2003 the complainant and his associates entered the school and beat applicant No. 4. Other applicants tried to resolve the matter, but the complainant did not pay any heed. Applicant No. 4 lodged police report of the incident. As a counter blast, respondent No. 2 lodged report against the applicants and after 42 days of lodging of the report, police have registered offences against the applicants.

3. Learned Counsel for the applicants submits that one group supports the applicants and respondent No. 2 is supported by rival group. The report is concocted and was filed out of vengeance. He prayed for quashing of the FIR against the applicants.

4. Learned Additional Public Prosecutor contended that offences have been registered after recording the statements of witnesses and after conducting due investigation. He prayed for dismissal of the applicant. Learned Counsel for respondent No. 2 contended that applicants abused complainant in the name of caste and they should be shown no sympathy by this Court.

5. It is not disputed by learned APP appearing for respondent No. 1-State and learned Counsel for respondent No. 2 that there are inter-se disputes and infighting between the members of Society which runs school of which applicant No. 4 is Head-master. It is further not in dispute that applicants No. 1 to 3 are members of "Tanta Mukti Samiti". Learned Counsel for respondent No. 2 does not dispute that complainant belongs to the group of which Sudhakar Ambadasji Dhande is a member against whom applicant No. 4 made representation to the Collector for recovery of money. Annexure-I to the application indicates that excavation work etc. was alleged to have been carried out through respondent No. 2/complainant. Therefore, there is force in the submission of learned Counsel for applicants that respondent No. 2 and rival group members were harbouring grudge against applicant No. 4. In his police reports at Annexures-II and V applicant No. 4 had expressed apprehension that respondent No. 2 and others are likely to implicate him falsely in an atrocity case. It also appears from communications at Annexures III and IV that rival group members were not ready to give school records to applicant No. 4 and they were creating hurdles in

his functions. Reports were lodged on 7.3.2011 by both the parties. Perusal of the report lodged by respondent No. 2 shows that it is written in a casual manner. It is alleged that he was assaulted by applicants and they threatened him to kill after abusing him in the name of caste. It is apparent from communication dated 16.3.2011 addressed by the Superintendent of Police, Wardha to the Police Inspector, P.S. Karanja and communication dated 31.3.2011 issued by the SDPO, Arvi to the PSO, PS, Karanja copies whereof were produced before me by the Additional Public Prosecutor that complainant Suresh has personal grievances to grind against applicant No. 4. From the said communications, it is revealed that he had threatened the Collector that if appointment of applicant No. 4 is not cancelled, he would set himself on fire. In his communication dated 28.3.2011 applicant states that he is satisfied with the action taken by the police and that now he would not immolate himself.

6. It is thus obvious that report against applicant No. 4 was lodged by respondent No. 2 just to settle scores and out of vengeance. Report appears to be an off-shoot of rivalry between the two groups in an educational institution and applicants No. 2 to 4 appear to have been implicated only because they tried to resolve the disputes between applicant No. 4 and respondent No. 2 being members of "Tanta Mukti Samiti". Moreover, applicant No. 4 had earlier to the report of respondent No. 2 dated 7.3.2011, by his reports had expressed apprehension that respondent No. 2 may implicate him falsely under the Atrocities Act. Under these circumstances, if prosecution is allowed to continue, it may result into harassment to the applicants. Applicants cannot be compelled to undergo rigors of the trial unnecessarily as the chance of their conviction is remote. For all these reasons, this Court is inclined to allow the application. Criminal Application is accordingly allowed in terms of prayer Clause (1) thereof.