
(2000) 03 BOM CK 0031

In the Bombay High Court

Case No : Criminal Application No. 1822 of 1999

Nandkishor Choube and Others

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 01-03-2000

Acts Referred:

Citation : (2000) 102 BOMLR 603 : (2000) 2 MhLj 770

Hon'ble Judges : S.P. Kulkarni, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.P. Kulkarni, J.—Heard the learned Advocate appearing for the applicants. It appears that in Criminal Revision Application No. 44 of 1995, the Single Bench of this Court has taken a view on 20th July, 1999 (since reported in 2000(2) Mh.L.J. 748) that a grievance and the complaint involving an offence under the Atrocities Act when comes across by a Magistrate in a private complaint, such Magistrate is to return the complaint for being present to the Special Court constituted for the purpose of trying such offences. The settled distinction between the Magistrate issuing the process and like other committal proceedings committing the case to the Special Court, does not in the light of the said view, seem to be available. But, the learned Magistrate is to return the complaint with a direction to the complainant that if so desired by the complainant, the complainant should present it to the Special Court constituted for trying such offences. I do not think that any different view is necessary to be taken, insofar as the involvement of offence under the Prevention of Atrocities Act in a complaint are concerned.

2. With the consent of both the sides, the matter is taken up for final hearing itself as because of this technicality it is not desirable that unnecessary time should pass and, therefore, the matter is heard finally. There is no representation on behalf of the original complainant.

3. It is not necessary to divulge into the discussion regarding a direction to issue

process or such position being distinct from the trial of the offences in respect of which the process is issued. It is not merely under the Atrocities Act but some of the offences which are triable by the Magistrate were also involved under the Penal Code in that complaint. But then this aspect part. If the cognizance of the offence under the Atrocities Act is required to be taken only by the Special Court, I think that the same procedure should be followed by the learned Magistrate by calling upon the complainant to receive the complaint back and a direction to the complainant to present it before the Special Court constituted for trying the offences punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In view of the above, the present application is allowed. The impugned orders passed by both the Courts stand set aside.

Copy of this order be forwarded for information to the Magistrate concerned, as the complainant is not represented before this Court today.