

(2015) 03 BOM CK 0381

In the Bombay High Court

Case No : Criminal Application [APL] No. 65 of 2011

Ramlal and Others

APPELLANT

Vs

The State of Maharashtra and Others

RESPONDENT

Date of Decision : 26-03-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 294, 323, 324, 34, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x)

Citation : (2015) ALLMR(Cri) 3490

Hon'ble Judges : A.B. Chaudhari and P.N. Deshmukh, JJ.

Bench : Division Bench

Advocate : R.M. Daga, Advocate, for the Appellant; T.A. Mirza, APP, for the Respondent

Judgement

A.B. Chaudhari, J.—Following is the prayer in Prayer Clause [A] of this Application:--

"A) Quash F.I.R. registered against Applicants at P.S. Sihora, Distt. Bhandara vide C.R. No. 53/2010 for offences punishable U/s. 324, 323, 506 r/w 34 of I.P.C. and Section 3(1)(x) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act;"

Heard Mr. Daga, learned counsel for the applicants, and Mr. Mirza, learned Addl. Public Prosecutor for respondent No. 1. We have perused the entire record, so also the papers of investigation which were called on the last date of hearing. Upon perusal of the statements and FIRs, we find that the Applicant No. 1 had lodged an FIR with Police Station, Sihora, earlier on 28th November, 2010 at about 8.00 p.m., and offences under Section 294, 506 and 323 read with Section 34 of Indian Penal Code, were registered against four persons, including the complainant, i.e., respondent No. 2 - Kamlesh in this case. It appears that thereafter Kamlesh lodged an FIR with Police Station, Sihora, on the same date at 8.30 p.m., alleging that abuses were hurled in the name of his caste during a

marriage ceremony.

2. We have perused the written report lodged by respondent No. 2 which contains an allegation that at a marriage ceremony, respondent No. 2 was abused in the name of his caste. That being so, we have also perused the investigation papers and statements of witnesses. Perusal of the statement of witnesses also shows the same thing and that apart, reading of the statement of complainant shows that the words about abuses seem to have been inserted with a view to give colour to the First Information Report and the case of the complainant. We are aware that by inserting Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the trial goes to the Special Judge. On perusal of the case papers as well as investigation papers, we find, there is no specific attribution to the applicants about giving abuses to the respondent No. 2 in the name of his caste, nor the investigation papers also show the same. We have, therefore, reason to believe that the FIR, in so far as it relates to offence under Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, was lodged only with a view to add flavour. We do not agree that such course should be allowed, as it amounts to abuse of process of law. Hence we make the following order:--

"ORDER

[a] Criminal Application [APL] No. 65 of 2011 is partly allowed.

[b] First Information Report No. 53 of 2010 dated 29th November, 2010 lodged by respondent No. 2 herein at Police Station, Sihora, for offence under Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act is quashed and set aside, so also further investigation in relation thereto.

[c] For rest of the offences registered against the applicants, the investigation shall be completed within two months and a final report shall be submitted.

[d] Liberty is reserved in favour of the applicants to take such steps as are available in law after filing of the chargesheet, if any."