

(2014) 06 BOM CK 0054

In the Bombay High Court

Case No : Criminal Application No. 3226 of 2014

Sachin

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 25-06-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 482
Penal Code, 1860 (IPC) — Section 295A, 34, 354B
Prevention of Damage to Public Property Act, 1984 — Section 3, 7
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(xi)

Citation : (2014) ALLMR(Cri) 3530

Hon'ble Judges : S.S. Shinde, J; P.R. Bora, J

Bench : Division Bench

**Advocate : S.J. Salunke, Advocate for the Appellant; K.M. Suryawanshi, APP,
Advocate for the Respondent**

Judgement

P.R. Bora, J.—Applicants have filed the present application for allowing them to compound the offense registered against them vide Crime No. 15/2014, at Police Station, Wadvani, district Beed, for the offense under Sections 354-B, 295-A, 34 of IPC, 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as SC & ST Act) and under Sections 3 and 7 of Prevention of Damage to Public Property Act, 1984 and, consequently, for quashing further investigation in the said crime. Original complainant is applicant No. 4 in the present application. Heard learned Counsel appearing for the applicants. Learned Counsel submitted that with the intervention of elders, the matter between the present applicant Nos. 1 to 3 and present applicant No. 4 i.e. the original complainant has been settled and that applicant No. 4 does not now want to pursue the matter further. Learned Counsel further submitted that applicant No. 4, in her statement recorded under Section 164 of Cr.P.C. By the learned Judicial Magistrate, First Class, has stated that she does not want to continue with the criminal proceedings. Learned Counsel further submitted that applicant No. 4 has denied the occurrence of any incident, as is revealing from

the FIR lodged in the matter. Learned Counsel submitted that because of some misunderstanding the alleged complaint was filed. However, thereafter, everything has now been set right and no dispute remains. Learned Counsel further submitted that compounding of the offense and quashing of the FIR is necessary for maintaining social harmony in the village. Learned Counsel placed his reliance on the judgment of this Court in the matter of Dhananjay Gopalrao Bahergaonkar and Bliz Farma, MIDC Vs. The State of Maharashtra and Akash Wadmare .

2. Learned A.P.P. Has prayed for passing of an appropriate order. We have consciously considered the submissions made on behalf of the applicants. We have carefully perused the FIR dated 18.3.2014 registered at Police Station, Wadvani on the report lodged by the present applicant No. 4.

3. The FIR lodged by applicant No. 4 reveals following allegations against applicant Nos. 1 to 3:

"(I) That when applicant No. 4 restrained them from shouting in Gram Panchayat Office, they abused her on the basis of and undermining her caste (applicant No. 4 belongs to Scheduled Caste).

(II) That they outraged modesty of applicant No. 4 by holding her blouse because of which two buttons of her blouse were aborted.

(III) That they pulled down photo-frame of Babasaheb.

(IV) That they damaged the property of the Gram Panchayat."

4. Before advertng to the facts and merit involved in the present case, we would like to re-produce here-in-below the observations made by the Hon"ble Supreme Court in regards to the powers of the High Court under Section 482 of Cr.P.C., in the case of State of Karnataka Vs. M. Devendrappa and Another, ,

"the inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest Court of the State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court, and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material."

5. In the light of the observations made by the Hon"ble Supreme Court in the aforesaid judgments, the facts in the present case will have to be considered. In the instant application, nothing is stated regarding the investigation in the matter in question after lodging of FIR. The facts are incomplete and hazy. The evidence has not been produced before the Court. The issues involved, factual and legal, are of social magnitude. As such, without sufficient material, according to us, it may not be proper at this stage to quash the FIR and further prosecution.

Secondly, the contention of the applicants that the dispute involved is of personal nature and the Court should, therefore, accept the terms of compromise, is

difficult to be accepted. Entering into the office of the Gram Panchayat and causing damage to the Gram Panchayat property cannot be said to be a dispute of personal nature and, therefore, cannot be permitted to be compounded merely on the submission that the complainant and the accused have forgotten the alleged incident and today the relations between them are cordial.

Thirdly, the offending acts alleged against the applicant Nos. 1 to 3 of pulling down the photo frame of Babasaheb and causing damage to the Gram Panchayat property can not be condoned by complainant Chandrakala by entering into amicable settlement with applicant Nos. 1 to 3.

Fourthly, if the applicant No. 4 i.e. original complainant will be now denying the occurrence of any such incident and if her said contention be true, her lodging the complaint would amount to abuse of process of law and she can be subjected to face its consequences. For this reason also, request in the present application cannot be accepted. No one can be allowed to first file a complaint making serious allegations and, thereafter to enter into a compromise with the accused persons denying the occurrence of the incident itself. The investigating machinery and judicial system cannot be taken for a ride in this way.

6. Learned Counsel for the applicants has relied upon judgment of this Court in the matter of Dhananjay Gopalrao Bahergaonkar and Bliz Farma, MIDC Vs. The State of Maharashtra and Akash Wadmare . In the said case, the dispute between the complainant and the accused was a property dispute. The complainant in the said case was intending to purchase property, however, he could not succeed in that and hence there had a dispute. In the instant case, accused are alleged to have caused damage to the Gram Panchayat property and also alleged to have pulled down the photo-frame of Babasaheb in addition to the allegation that they outraged modesty of complainant Chandrakala. It is, therefore, evident that the judgment relied upon by the applicants (cited supra) may not be of any help to the applicants. In view of the discussion made above, it does not appear to us that this is a case where we should exercise our inherent powers under Section 482 of Cr.P.C.

The application, therefore, fails and is, accordingly, rejected. No order as to costs.