

(2009) 07 BOM CK 0252

In the Bombay High Court

Case No : Criminal Application No. 3605 of 2006

Vikas Dattatraya Janjire

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 27-07-2009

Acts Referred:

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

Citation : (2009) CriLJ 4713 : (2010) 6 RCR(Criminal) 565

Hon'ble Judges : Shrihari P. Davare, J

Bench : Single Bench

Advocate : A.S. Manorkar, for S.G. Ladda, for the Appellant; R.R. Mane, Assistant Public Prosecutor, for Opposite Party No. 1, for the Respondent

Final Decision : Dismissed

Judgement

Shrihari P. Davare, J.—Perused. Rule. Rule made returnable forthwith and by consent of learned respective counsel of the parties, matter is taken up for final hearing.

2. The applicant (original accused) has filed the present application requesting that F.I.R. of C.R. No. 11-28/2006 of Police Station, Ajintha be quashed and set aside.

3. On 21-11-2006, the respondent No. 2 (original complainant) Prayagbai lodged F.I.R. with the Police Station, Ajintha, alleging that since last two years she is cooking Khichadi at Primary School, Sirsala under the Daridrya Reshe Khalil Mahila Magasvargiya Bachat Gat Scheme. She also contended that she was paid 38 ps. per student as remuneration and the applicant herein used to deduct 1/4th amount from her bill under the pretext that the said amount was to be paid as contribution to the scheme. It is also alleged by respondent No. 2 that on 4-10-2006 her husband had been to Panchayat Samiti, Sillod and on enquiry, he

learnt that no such contribution was required to be paid. Hence, on the next day, the respondent No. 2 went to the school and demanded her bill of Rs. 3692/-. Thereupon, the applicant herein alleged to have demanded an amount of Rs. 1000/-. The respondent No. 2 refused to pay the same. It is, however, alleged that, on her refusal, the applicant abused her saying that "She is Mahar, is Dedpat and as she is Mahar and, therefore, she is unskilled to cook Khichadi" and accordingly, the applicant saying so, alleged to have expelled her from the school.

4. It is alleged by the respondent No. 2 in the F.I.R. that, she narrated the aforesaid incident to the Sarpanch, President of the School Committee and the Block Development Officer of Panchayat Samiti. However, none of the authorities took the cognizance thereof. Hence, she allegedly lodged the complaint with Police Station, Ajintha on 15-10-2006 under Crime No. 575/2006. It is further alleged that thereafter on 16-10-2006 the applicant, with the help of some adamant persons from the village, put pressure over her and thereby compelled her to withdraw the said complaint. In the F.I.R., the respondent specifically called the police to register the offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the applicant by reopening the case. The applicant submits that, he learnt about the aforesaid complaint and further submits that, no such incident as contended or otherwise took place. Hence, the respondent No. 2 has lodged the aforesaid complaint against him. In the circumstances, the applicant approached to this Court requesting to quash and set aside the said F.I.R., contending that it does not make out any offence.

5. Heard learned respective counsel for the parties.

6. The learned Counsel for the applicant submits that the respondent No. 2 herein gave a writing on 17-10-2006 i.e. after lodging the complaint on 15-10-2006 in respect of the alleged incident of 4-10-2006 and thereby withdrew the complaint dated 15-10-2006 and allegations therein and thereafter lodged the complaint in question on 21-11-2006 arising out of the same incident and, therefore, same is required to be quashed and set aside.

7. Mrs. Mane, the learned A.P.P. for respondent No. 1 submitted that the applicant has not produced the alleged record along with the present application and the complaint in question discloses that it was filed on 21-11-2006 in respect of the incident dated 4-10-2006 and the said complaint does not reflect that any earlier complaint dated 15-10-2006 was withdrawn and, therefore, further submitted that there is no substance in the contentions raised by the learned Counsel for the applicant.

8. At the outset, on perusal of the contents of the complaint/ F.I.R. produced at Exhibit A, it is seen that it is dated 21-11-2006 in respect of the alleged incident dated 4-10-2006 and the contents of the said complaint also reveal that on 16-10-2006 some people from the village brought pressure upon her and threatened her and compelled her to withdraw the earlier complaint. However, as

contended by the learned Counsel for the applicant, the alleged writing dated 17-10-2006 as well as the record regarding the withdrawal of the earlier complaint have not been produced along with the present application.

9. Apart from that, it is apparent that there are allegations in the complaint/ F.I.R. in question in respect of the charges under Sections 504 and 506 of the Indian Penal Code and also u/s 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and apparently there is prima facie case against the applicant, and same are required to be dealt with In accordance with the law during the trial.

10. Moreover, it is also reflected from the contents of F.I.R. that the complainant has given reason for filing the said F.I.R./ complaint at the belated stage.

11. In the circumstances, apparently there does not appear to be any abuse of the process of the Court by filing the aforesaid complaint/ F.I.R. and, therefore, there is no necessity to invoke the inherent powers u/s 482 of the Criminal Procedure Code.

12. In the result, the present application fails since it bears no substance and it has no merits and, therefore, same stands dismissed. Interim relief stands vacated and Rule stands discharged accordingly.