

**Sitaram and Another Vs. the District Superintendent of Police and Others**

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**Court :** Mumbai Aurangabad

**Decided On :** Dec-04-2013

**Judge :** Naresh H. Patil & M.T. Joshi

**Appeal No. :** Criminal Application No.327 of 2006

**Appellant :** Sitaram and Another

**Respondent :** The District Superintendent of Police and Others

**Judgement :**

Oral Judgment: [Naresh H. Patil, J.]

1. Heard learned counsel appearing for the respective parties.
2. The Applicant No.1 Sitaram Madhavrao Wagh and Applicant No.2 Raosaheb Trimbak Tarde, filed present Criminal Application praying for quashing the complaint and the proceedings of Crime No.5 of 2006 registered under Section 354 read with 34 of the Indian Penal Code and Section 3(1)(xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. During the pendency of the Application, prayer clauses were amended and it was further prayed that criminal proceedings bearing S.T.C. No.554 of 2008 (S.C.C. No.554 of 2008 "State vs. Sitaram and ors.) pending before the Judicial Magistrate, First Class, Ambad for the offences punishable under Section 354 read with 34 of I.P.C., be quashed and set aside.

3. The learned Single Judge had granted interim stay in terms of prayer clause (C) on 1<sup>st</sup> February 2006, which reads as under:

"C) During the pendency and hearing of this application the police inspector, police station Ambad be directed not to arrest the applicant and he be further directed to release on bail in the event of their arrest in crime No.5 of 2006 and obliged."

4. By an order dated 28th March 2007, Application was admitted with further direction that, in so far as the offence punishable under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, there shall be stay to the proceedings.

5. The Application is moved as the parties have filed compromise purshis on record signed and verified by the Applicants Sitaram Madhavrao Wagh and Raosaheb Trimbakrao Tarde, and Respondent No.3 Tarabai w/o Babasaheb Kalunke, dated 25<sup>th</sup> November, 2013. A separate affidavit is filed by the Respondent No.3/complainant Tarabai w/o Babasaheb Kalunke.

6. In the affidavit in Para 3, 5, 6 and 7, Respondent No.3/ complainant states as under: "3. I submit that the dispute arose between me and the applicants on the trifle ground and due to misunderstanding. During the period of 6 years, the relation between me and the applicants have become cordial and therefore I want to settle the matter amicably.

5. I submit that, I myself and the applicants want to maintain cordial relation and desire to put an end to the litigation and reside peacefully.

6. I submit that, myself and the applicants do not have any previous dispute and enmity and want to maintain brotherly and good relations among ourselves.

7. I submit that, I want to settle the matter amicably and do not want to proceed the matter bearing S.T.C. no.554/2008 which is pending before the J.M.F.C. Ambad."

7. In the compromise purshis, it is stated that during the last six years relations between the Applicants and the complainant were cordial. They are resident of the

same village and they decided to settle the matter amicably.

8. Learned counsel for the Applicants places reliance on the following reported Judgments:

1) Gian Singh vs. State of Punjab and another, 2012 DGLS(Soft.) 457,

2) B.S. Joshi and others vs. State of Haryana and another, 2003 ALL MR (Cri) 1162(S.C.),

3) Mansur A. Khan vs. State of Maharashtra and others, 2004 ALL MR(Cri) 1911,

4) Shailesh s/o Sunil Pagare and others vs. the State of Maharashtra and others, 2013 ALL MR (Cri) 57.

9. It was submitted by the learned counsel for the Applicants that considering the facts and circumstances of the case and the affidavits filed before this Court, it would be in the interest of justice to quash the proceedings.

10. Learned counsel appearing for Respondent No.3 submits that the parties be permitted to settle the dispute and the proceedings be quashed and set aside.

11. Both the learned counsel, appearing for Applicants and Respondent No.3 submits that parties are present in the Court and they identify the parties.

12. On confronted by us, Respondent No.3 submits that she does not want to proceed further the criminal proceedings lodged against the Applicants. She is making a statement out of her free will, without any pressure on her, according to Respondent No.3.

13. The scope and ambit of powers of this Court conferred under Section 482 of the Code of Criminal Procedure are enunciated in the Judgment of the Apex Court in the case of **GianSingh vs. State of Punjab and another**, cited supra. The Apex Court observed that the High Court while exercising powers under Section 482 of the Code of Criminal Procedure, must have due regard to the nature and gravity of the crime and the same has to be exercised in accordance with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to

prevent abuse of the process of any Court.

14. In the facts and circumstances of this case, we have noticed that this Court had stayed the proceedings initiated under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, therefore chargesheet came to be filed for an offence punishable under Section 354 read with 34 of the Indian Penal Code. It was submitted that said case is pending before the trial Court. Plea of the accused was recorded, according to the counsel of the Applicants.

15. Considering the afore mentioned facts, circumstances, nature of allegations made, submissions advanced and the contentions raised in the affidavits filed by the parties, we are of the opinion that the proceedings initiated on complaint filed by Respondent No.3 and consequent filing of the chargesheet pending before the J.M.F.C. Ambad, needs to be quashed and set aside in exercise of inherent jurisdiction of this Court conferred under Section 482 of the Code of Criminal Procedure.

## **ORDER**

(I) The first information report registered at Crime No.5 of 2006 registered with Police Station Ambad, Dist-Jalna for the offences punishable under Section 3(1)(xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is quashed and set aside.

(II) Criminal Case bearing S.T.C. No.554 of 2008 (S.C.C. No.554 of 2008 "State vs. Sitaram and others") filed for the offences punishable under Section 354 read with 34 of the Indian Penal Code pending before the Judicial Magistrate, First Class, Ambad, Dist.Jalna, is quashed and set aside.

(III) Rule is made absolute in the above terms.

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