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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VISHAL DHAGAT
ON THE 6th OF NOVEMBER, 2023
MISC. CRIMINAL CASE No. 6138 of 2010**

BETWEEN:-

1. **ASHUTOSH TIWARI** [REDACTED]
2. **KAMLESH SHUKLA** [REDACTED]

.....APPLICANT

(BY SHRI VIPIN YADAV - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH P.S.
JAITPUR SHAHDOL (MADHYA PRADESH)**
2. **VIKAS KHARE** [REDACTED]

.....RESPONDENTS

(BY SHRI AKSHAY NAMDEO - GOVT. ADVOCATE)

This petition coming on for hearing this day, the court passed the following:

ORDER

Petitioners have filed this petition under Section 482 of Cr.P.C for quashing of proceedings in complaint case No.218/2010, which is pending before Chief Judicial Magistrate, Shahdol.

2. Counsel appearing for petitioners submitted that stay over proceedings was granted by this Court vide order dated 07.07.2010 till next date of hearing.

Thereafter, stay was continued by this Court on 15.03.2013 & on 02.05.2014. After said date, case was not listed before this Court. It is submitted that as per his information, complaint case is pending before the Court. Counsel appearing for petitioners makes a prayer for hearing of the case since matter is pending before this Court since 2010.

3. Counsel for petitioners submitted that no offence under Section 294, 506(II) of IPC and 3(1)(x) of SC & ST (POA) Act is made out against petitioners. According to the statement given by complainant in Court, meeting was taking place in staff room of school. During said meeting, petitioners had abused the complainant by caste name-*Chamar*. It is submitted that utterances of disparaging remark said to have been made in a staff room of school, which is not within public view, therefore, no offence under Section 3(1)(x) of the Act will be made out against petitioners.

4. It is further submitted that as per Section 294 of IPC, obscene act, song or any other utterances has to be made in a public place. It is submitted that staff room of a school is not a public place. Word 'public' has been defined in Section 12 of Indian Penal Code. According to said section, 'public' means '*any class of public*' or '*any community*'. From said definition of public, it is clear that public means common men or persons of community or citizens. Public place will be a place, where public has accessed. Staff room of a school is not a public place and general public does not have access to the staff room. Only teachers can use staff room for particular purposes. In these circumstances, it is submitted that offence under Section 294 of IPC will also not made out against petitioners.

5. Counsel appearing for petitioners further argued that offence under Section 506 of IPC is also not made out against petitioners. Public intimidation

is defined in Section 503 of IPC, which says that whoever threatens another with an injury to his person, reputation or property with intent to cause alarm to that person is an offence punishable under Section 506 of IPC. In statement, which is given in Court, it has not been stated that any alarm has been caused to the complainant. It is only stated that he was threatened but nothing was stated that he was alarmed by such threat. In these circumstances, prayer is made for quashing of proceedings in complaint case.

6. Govt. Advocate appearing for State submitted that private complaint case has been filed. Respondent No.2 is not prosecuting the case. In the interest of justice, it is argued by him that offences under Section 294, 506 of IPC & Section 3(1)(x) of SC & ST (POA) Act are made out against petitioners. Petitioners had abused the complainant with word '*chamar*' in staff room where others teachers were present, therefore, offence under Section 3(1)(x) of SC & ST (POA) Act will be made out against petitioners. Similarly, in staff room, other teachers were present, therefore, it is a public place. In these circumstances, petition may be dismissed.

7. Respondent No.2 was served and was represented by counsel.

8. Today, when the matter is taken up for hearing, none appears for Respondent No.2. It appears that respondent may have lost interest in prosecuting the case, therefore, respondent No.2 is proceeded *ex parte*.

9. Heard learned counsel for petitioner as well as Govt. Advocate appearing for respondent-State.

10. Section 3(1)(x) in The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Sections 294 & 503 of Indian Penal Code reads as under :

Section 3(1)(x) in The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 :

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

Section 294 in The Indian Penal Code reads as under :

[294. Obscene acts and songs.—Whoever, to the annoyance of others-

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.]

Section 503 in The Indian Penal Code :

503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation. Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section. Illustration A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

11. On going through aforesaid definitions given in these acts, it is clear

that offence shall be committed in a public view to make out an offence under Section Section 3(1)(x) of SC & ST (POA) Act. Staff room is not a place within public view, therefore, no offence under Section 3(1)(x) of SC & ST (POA) Act is made out against petitioners.

12. Abuses, which is said to have been given by petitioners, are also not in public place. Staff room is not a public place and common public or citizens do not have access to it without permission of the school. In these circumstances, offence under Section 294 of IPC is also not made out against petitioners.

13. On going through the statement given by complainant (PW/1) in Court, nowhere, it has been stated that an alarm was caused to him when abuses were made against the reputation of complainant. In these circumstances, offence under Section 506 of IPC is also not made out against petitioners.

14. Considering aforesaid facts and circumstances of the case, petition filed by petitioners under Section 482 of Cr.P.C is allowed. Proceedings in complaint Case No.218/2010 registered against petitioners for having committed offence under Section 294, 506(II) of IPC & 3(1)(x) of SC & ST (POA) Act pending before Chief Judicial Magistrate Shahdol District-Shahdol are quashed.

15. Petition filed by petitioners is **allowed and disposed off**.

Certified copy as per rules.

(VISHAL DHAGAT)
JUDGE