ORDER BELOW THE APPLICATION (EXHIBIT 33)
IN ATRO. SPECIAL CASE NO. 41/2022
(STATE VS. PRAJAKTA)
(PASSED ON : 27/03/2024)

1. This is an application filed by the victim-Jayant Bokefode (for short 'victim') to issue summons to Shirish Sardeshpande, Superintendent of Police Solapur (for short 'S.P.'), under sub-section 4 of Section 15(A) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities)Act, 1989 (for short 'Atrocities Act').

2. Read application.

3. This application is not signed by the Additional Public Prosecutor (for short 'A.P.P.') which showed that the prosecution is not supporting this application filed by the victim.

4. The victim has filed written argument (Exhibit 37). I have gone through the same.

5. The charge against the accused is yet to be framed.

6. The contents in the application if read between the lines give clear indication that those are in respect of complaint filed by the victim against Vikram Kadam, Deputy Superintendent of Police, Pandharpur (for short 'Dy.S.P.').

7. The Crime Register (for short 'C.R.') No. 44/2023 was registered on the complaint of the accused on 13/01/2023 in respect of incident dated 06/06/2022.

8. The copy of C.R. No. 44/2023 is produced on record by the victim with this application. The perusal of C.R. No. 44/2023 showed

that it is registered on the complaint lodged by the accused under Sections 354, 451, 506, 507 and 509 read with 34 of the Indian Penal Code and it is a separate complaint.

9. This case is outcome of C.R. No. 739/2022 registered on the complaint filed by the victim on 28/10/2022 under Sections 3(1)(p) and (q) and 3(2)(i) and (ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act')

10. The contents in the C.R. No. 739/2022 showed that the accused made false allegations against the victim and his wife in order to avoid repayment of the amount given by them to her and she has filed false criminal complaints and gave false information to the Pandharpur Administration causing mental harassment to them.

11. After considering contents in the C.R. No. 739/2022 it is clear like cloudless sky that it is outcome of civil dispute in respect of repayment of amount which proves that a private civil dispute between the parties is converted into criminal proceeding, prima-facie and initiations of the criminal proceeding therefore is nothing but an abuse of process of Law and Court.

12. It is well settled that framing of a charge is an exercise of jurisdiction by the Court in terms of Section 228 of the Code of Criminal Procedure (for short 'Cr.P.C.'), unless the accused is discharged under Section 227 of the Cr.P.C.. **Under both these provisions, the Court is required to consider the record of the case and documents submitted therewith and after hearing the parties,** may either discharge the accused or where it appears to the Court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Thus, at the initial

stage of framing of a charge, the Court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the Court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage.

13. Any document or other thing envisaged under Section 91 of the Cr.P.C. can be ordered to be produced on finding that the same is '**necessary or desirable for the purpose of investigation, inquiry, trial or other proceedings under the Code**'.

14. Admittedly, the charge is not framed against the accused and it is not framed only because of the various applications filed by the victim on almost each and every date.

15. After considering the contents in the C.R. No. 739/2022 and this application I am of the considered view that at this stage the information in respect of action taken against Dy.S.P. and involved police officers and say of Dy.S.P. is not necessary or presence of S.P. is also not desirable for the purpose of framing charge against the accused. Therefore, the question of invoking Section 91 of the Cr.P.C. at this initial stage of framing of a charge would not arise and the application is liable to be rejected.

16. After going through the contents in the application it transpires that no details as to why and for what purpose the victim is seeking issuance of summons to S.P. and for what purpose the victim want presence of S.P. that too at the stage of framing charge against the accused are given. Hence, merely because the application is filed no summons can be issued, as prayed. The application is devoid of merits and is liable to be rejected.

17. In the result, order.

ORDER

The application (Exhibit 33) is rejected.

(Pronounced in open Court)

MAHESH BALKRISHNA LAMBE
Digitally signed by MAHESH BALKRISHNA LAMBE
Date: 2024.03.29 12:25:03 +0530

Dated :- 27/03/2024.

(M. B. Lambe)
Special Judge (Atrocity Act,)
Pandharpur.

C E R T I F I C A T E

I affirm that the contents of this PDF file Order is same word to word as per the original Order.

(a)	Name of the Stenographer	:	Sou. M. M. Kulkarni
(b)	Court	:	M. B. Lambe, District Judge – 1 & Addl. Sessions Judge, Pandharpur.
(c)	Order signed by P.O. on	:	27/03/2024
(d)	Order uploaded on	:	29/03/2024

Special Judge (Atrocity Act), Pandharpur.