CHAPTER - VII

CASES REGARDING OFFENCES RELATED TO RELIGION
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7.1 INTRODUCTION:

After presenting the picture of atrocities against SCs and STs in India, Maharashtra and Kolhapur District, review of available literature and methodology of the study, the case studies of atrocities against Mahádeo Koli, a Scheduled Tribe regarding caste certificate verification and working of law and roles of Government and its agencies in implementation from the present chapter the case studies in detail have been started. This chapter is related with the case studies on offences related to religion issue. The cases covered under this chapter are (1) Damaging of Dr. Babasaheb Ambedkar's photo with forming unlawful assembly, (2) A case of digging out corpse at Matang caste, (3) A case of damaging of community wall construction around Mhasoba Temple by attacking with forming unlawful assembly.

A Case of Damaging Dr. Babasaheb Ambedkar's Photo with Forming Unlawful Assembly.

Murgud Police Station C.R. No. 4/91 U/S 147, 148, 452, 295, 506, L.P.C. R/W Section - 7(1) (d) of Protection of Civil Rights Act – 1955

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<tr>
<td>1. Name of Village :-</td>
<td>Hamidwada</td>
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<tr>
<td>2. Location of Village :-</td>
<td>31km from Kagal. Approaching roads to - Nipani, Bastawade, Metage, Arjunwada, Benikre.</td>
</tr>
<tr>
<td>3. Drinking water facilities available :-</td>
<td>Separate water supply scheme, through tap water.</td>
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<tr>
<td>5. Medical facilities :</td>
<td>No primary health center available.</td>
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Brief facts of the case:

On 12/01/1991 of Saturday at about 6 a.m. complainant Bacharm Maruti Sarnaik and inmates of his house were in their house bearing No. 607, opposite to their house bearing No. 307 which was locked. Parubai Banda Chopade, Laxmibai Morbale, Vithabai Chopade entered in that house and started abusing and damaging articles. When asked Parubai Chopade told that the house was owned by her and she wanted to marry Bacharam Sarnaik. So Bacharam and his wife Savita went to police station Murgud. The concerned police came to Hamidwada, took those three ladies, Bacharam and his wife in the police van to Murgud and convinced them not to quarrel. So Bacharam did not file any complaint in that respect, Bacharam and his wife thereafter went from Murgud by ST bus to their house at Hamidwada. When they reached to their house No. 607 at about 8 p.m., Sunita- daughter of Balu Kamble, who is the daughter of sister of wife of Bacharam informed Bacharam that accused (1) Vithal Hari
Hasole, age-62 (2) Bapu Dattatraya Kore, age-57 (3) Vilas Martand Tikale, age-44 (4) Mustak Balasaheb Shaikh, age-36, (5) Dinkar Appa Chopade, age 42 (6) Sadashiv Bhau Gandugade, age-42 (7) Ramchandra Balyappa Chandragude, age 42 (8) Baburao Ganpati Shewale, age 57 (9) Bajrangi Dattu Nirmal, age 50 (10) Ramchandra Satyappa Gandugade, age 37 (11) Tai @ Laxmibai W/O Dattatraya Potdar, age 55 (12) Parubai W/O Banda Chopade, age 33, all residents of Hamidwada, had entered in their house No. 370, defiled the statue of Dr. Babasaheb Ambedkar by throwing night soil, dung and stones. One photo of Dastageer Baba was also broken on account of pelting stones. Glass pieces of the frame of that photo were fallen down. Sunita also informed Bacharam, that the accused while going back, had threatened that in case he would file complaint against them in the police station, the accused would ignite their houses and put an end of their lives. Out of fear, Bacharam did not go to police station to lodge the complaint. House bearing Nos. 370 and 607 are located in the center of village Hamidwada. Bacharam belongs to Mahar caste. He works as a social worker to get the liquor addicted persons freed from addiction. The people of high caste did not want that Bacharam to reside in the center of the village and they wanted that he should leave that village. So the accused did the aforesaid acts.

On or about 13.1.1991 number of disciples of Bacharam had come to the house of Bacharam and they found the statue of Dr. Babasaheb Ambedkar presented by them to the complaint Bacharam, defiled and came to know that the complainant Bacharam was threatened, they wrote down complaint and sent xerox copies to the number of authorities. Police Head Constable Amin Gadkari received one of the Xeroxed copy of that complaint on 15.1.1991 in Murgud Police Station, when he was Police Station officer. Police Sub Inspector
Rajaram Shinde put an endorsement on that complaint directing police head constable Subhash Patil to make inquiry and submit report on 16/1/1991. In consequence of that order police head constable Subhash Patil sent police constable Vasant Khamkar to bring complainant Bacharam from village Haamidwada and to produce him before Police Sub Inspector Shinde. Accordingly Vasant Khamkar brought Bacharam from his house to Murgud police station and produced him before Police Sub Inspector Rajaram Shinde. Police Sub Inspector Shinde recorded his complaint as per his say and registered Crime No. 9/1991 on 17/1/1991 at about 16.15 hrs after taking Station Diary Entry No. 26 in Murgud Police Station, in the copy of station diary. He gave that complaint to Assistant Police Sub Inspector, went to the place of offence, made panchanama of place of offence and attached muddemal articles viz. glass pieces, stone, dung from the place of offence under panchanama in presence of panches Madhukar Pote and Banda Jadhav. The said Assistant Police Sub Inspector Kurane recorded the statements of the witness, managed to get photo of statue of Dr. Babasaheb Ambedkar in the house No. 370 at Hamidwada. Shivaji Burate took the snap and gave negative of that snap alongwith the photo-copy to the concerned police. Police Sub Inspector Rajaram Shinde, took up the investigation from Assistant Police Sub Inspector Kurane on 19/1/1991. He arrested accused No. 1, 7 and 8 on 19/1/1991, remaining accused except 10 and 12 on 12/10/1991 and after completing necessary investigation and obtaining number of documents produced by the complainant, filed charge sheet against accused No. 1 to 10 in the court of the Judicial Magistrate, first class on 08/04/1991. Thereafter he arrested accused No. 11 and 12 on 09/10/1991 and submitted supplementary chargesheet against both the accused and said court on 12/10/1991.
Prosecution examined all twelve witnesses in this case. The case has been decided on 21/01/1994 and all the accused i.e. 1 to 12 are acquitted from this offence. C.G. Bais, Special Judge (District and Sessions Court) Kolhapur, while delivering the judgment of acquittal against the accused observed and pointing out following points.

Findings of the court for acquittal of the case:

1) Accused No. 1, 3, 5, 6, 8, 9 and 12 belongs to Maratha Caste, accused No. 2, 6, 7, 10 belongs to Lingayat caste and accused No. 4 belongs to Mohammedan community.

2) Bacharam Maruti Sarnaik, clearly stated that at the time of incident he was at Murgud Police Station along with his wife and he came to know about the incident when he came to his house on 12.1.1991 at about 8 p.m. through Sunita.

3) As per the above reason, his statement has no importance to substantiate the charges leveled against all the accused in this case.

4) His statement clears the fact that, there was some dispute in between accused Parubai W/O Banda Chopade, age 33 yrs. And himself with reference to house No. 370 and that dispute was put to an end in Murgud Police Station during morning hours at least before the incident took place by way of compromise. As this fact reveals that it becomes very difficult that after compromise accused Parubai Chopade would go against Bacharam and participate in the offence alleged to have been committed in this case.

5) Further Bacharam also stated that accused No.1 Vithal in his capacity as Sarapanch has given him notice in the year 1989, when he was constructing house No. 370. He had filed civil suit against accused No.1 Vithal in that connection in the court of Kagal.

6) Further, he admitted the fact that he was a witness in Sessions Case No. 60/90 at Kolhapur, in which accused No.1, Vithal was also the accused.
7) Again, he admitted that, he had entered into contract with father of accused No.4 Mustak. He had filed civil suit against accused No.4 for perpetual injunction.

8) It suggests from the above facts that the relation between Bacharam and accused Vithal and Mustak must not be normal on or before the day of incident. So possibility of involving accused No.1 and 4 and their party persons falsely to ventilate grievance against them cannot be ruled out in this case.

9) Sunita Kamble, the eye witness in this case, has given her age as 13 years when her statement was recorded on 17/1/1994, naturally at the time of incident, she must be about 10 years of age. A girl of about 10 years would keep herself concealed in a room where about 12 persons had entered and participated in the commission of offence alleged to have taken place.

10) Bacharam in his cross examination also admitted in the fact that house No. 370 has no electric connection, nor water tap. And as the incident had taken place at about 7.15 p.m. it becomes very difficult, that one will be in a position to see the 12 persons entering in the house to do wrongful things, it is impossible to see as to who had pelted what articles and on what part of the house.

11) The contents of panchanama (Spot Panchanama) do not disclose that statue of Dr. Babasaheb Ambedkar was broken.

12) It is also pertinent to note that when photo inside the room was damaged, the concerned police did not attach that photo. There is also no evidence on record to show that in fact, statue of Dr. Babasaheb Ambedkar installed on the chair was so weighty that it could not have been attached by the concerned police. There is also no record to show that the statue was being worshipped daily and so the complainant Bacharam's feeling would have been aggravated if the statue would have been attached by the concerned police during the course of investigation.
All these lacunae in the investigation make the prosecution case against the accused highly doubtful.

13) Bacharm the complainant admitted in his cross-examination that he has not mentioned in the complaint that he had returned from police station by the S.T. bus and by the time he reached to the house, police had come there already in van. The compromise had taken place in police station on that day. He also admitted that in complaint it is falsely mentioned that Navasabai resides with him. If these facts are taken into account, it becomes evident that certain false things are incorporated in complaint.

14) There is no evidence on record to show that statue of Dr. Babasaheb Ambedkar was in the house on or before 17/1/1991, and it was given to Bacharam by his disciples. The investigation officer in this case, has failed to collect such material evidence for the reasons best known to him. It appears from the statement of Assistant Police Sub, Inspector Kurane and Police Sub Inspector Rajaram Shinde that the investigation carried out by them is totally perfunctory.

15) All the witnesses did not disclose the facts of incidents to anybody; not a single word. This was very suspicious.

16) Sunita the eye-witness in her cross examination was unable to tell full name of her head master, any teacher in which she is studying except her own aunt. This shows that in all probabilities Sunita must have been tutored by somebody to disclose full names of accused No. 1 to 12 under these circumstance it is very difficult to rely the statement of Sunita particularly when the incident is said to have taken place inside the house at about 7.15 p.m. when there was no light in the room, no electric connection to that room.

17) The witness Tanubai Morbale admitted that she had not stated before police that below left eye, night soil was seen and on forehead as well as on both collars of statue of Dr. Babasaheb Ambedkar dung was seen.

18) In the cross examination the photographer Shivaji Burate stated that, nobody was inside the house when he took snaps. Panchanama was
going on in front of the house then. Contents of panchanama disclosed that panchanama was going on in between 5.45 to 6.45 p.m. on 17/1/1991. Neither Bandu Jadhav, the panch, nor Assistant Police Sub Inspector Kurane disclosed that when panchanama was being made, photo of statue of Dr. Babasaheb Ambedkar was taken by witness Shivaji Burate. Shivaji Burate deposed that he could not tell why delay of .2 to 2½ months to give photo in this case. Assistant Police Sub Inspector Kurane has deposed that he had sent Police constable Patil to take photographer of Hamidwada and he brought Shivaji Burate photographer on the spot to take the snaps and that photographer took the snaps of statue of Dr. Babasaheb Ambedkar. But it is pertinent to note that Police Head Constable Subhash Patil did not utter a single word in that connection in his statement. On the contrary, he has stated that he had only sent Police Constable Khamkar to Hamidwada as per order of Police Sub Inspector Shinde and he did nothing in this matter personally.

19) The spot from where photo of which negative was taken and in what manner it was taken remained doubtful, particularly with reference to the date of offence. Had there been any truth that on 17.1.1991, if these photos would have been taken definitely Police Head Constable Subhash Patil would have disclosed this fact. Complainant himself did not disclose anything about taking photo of the statue of Dr. Babasaheb Ambedkar.

20) Bandu Jadhav, the Pancha of spot panchanama, in his cross-examination admitted that in Panchanama police did not mention about night soil found on the spot. But in his examination in chief, he stated that below the left eye, he saw night soil on the statue of Dr. Babasaheb Ambedkar. There was no reason for the police not to mention such fact in panchanama of place of offence.

21) It becomes very difficult to infer as to who was actually responsible for causing the damage to the articles inside the house of complainant in absence of cogent, reliable and convincing evidence on record.
22) Another witness in this case Ravasaheb More, admitted that murder of father of accused Dinkar Aappa Chopade was committed in Hamidwada and he was accused in that murder case. If this was the fact, it was the possibility of involving the accused persons on account of previous enmity in this case cannot be ruled out.

23) More than 4 days and 21 hours were required to file complaint in this case. This delay has no proper explanation.

24) The complainant who is quite educated person, a graduate, would not have kept mum all the while without filing any complaint either directly or by post, through somebody else to seek his redress in the matter.

25) The prosecution has failed to establish the charges leveled against the accused. More suspicion or suspicious circumstances cannot relieve the prosecution of its primary duty or proving its case against all the accused persons beyond reasonable doubt. The delay in lodging the complaint, subsequent conduct of the prosecution witnesses and attempts made to patch up the case in this instant proceeding make it clear that the entire prosecution evidence is not worth to be believed. The evidence on record is also not sufficient to come to the conclusion that the accused committed mischief by dumping night soil and waste matter on the statue of Dr. Babasaheb Ambedkar, the evidence on record also is not believable to come to the conclusion that the accused committed criminal intimidation by threatening Bacharam and the inmates of his house. The evidence on record is also not sufficient to come to the conclusion that the accused insulted or attempted to insult Bacharam and the inmates of his house on the ground of untouchability.

This case was started for hearing before the Special Judge C.G. Bais (District and Sessions Judge) in January 1994. The Government pleader in this case was B.R. Patil whereas the defence advocates were (1) A.G. Burate for accused No. 1 to 10 and L.B. Chougule for accused 11 and 12. The case was decided on 21/04/1994. The period of over 2 years and 9 months has been taken
for the decision of the case after charge sheeting the case and over 3 years after registering the case. Another important fact to note here that the investigation officer filed the charge sheet after 3 months of its registration.

Observations:

1) There were too many lacunas found in the investigation.

2) Although Government of Maharashtra and Director General of Police, M.S. Mumbai gave instructions regarding investigation of the cases by P.S.I. and above that rank, lot of mistakes have been made by P.S.I. in this case.

3) A major part of lapse was seen, as the P.S.I. Shinde showed very negligence, although the application was given regarding this incident.

4) No evidence was collected regarding previous cases and civil suit in the courts against accused or filed by complainant.

5) Investigation was not completed within 1 month and although P.S.I. registered the offence, the investigation of such serious crime was handed over to A.S.I. so the evidence collected was of very poor qualify, and thereafter also when P.S.I. himself took the investigation, he also had not done the investigation with deep rooted facts of the case.

6) Notings/observations made by court as indicated their in at Sr. No. 12,14,18,20,21,23,25 are the reasons for acquittal are the lapse in the investigation.

7) Investigation was not carried out properly accordance with the real facts narrated in the complaint, panchanama and the events told by the witnesses.

8) Accused No. 1 Vithal Hari Hasole is the director on sugar factory viz. Shree Sadashivrao Mandlik Kagal Co-operative Sugar factory, and at present he is Sarpanch of village Hamidwada also.
### A Case of Duging Out Corpse of Matang Caste

**Panhala Police Station C.R.NO. 14/1994, U/S 295, 297 of Indian Penal Code**

**R/W Section 3(1) (10) of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act – 1989**

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<td><strong>1) Name of Village:</strong></td>
<td>Kotoli-Malwadi</td>
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<tr>
<td><strong>2) Location of Village:</strong></td>
<td>25 km from Kolhapur. Approaching roads to - Kerle, Nandgaon, Kaneri, Karanjfen, Kololi, Malwadi, Pimple, Malewadi.</td>
</tr>
<tr>
<td><strong>3) Drinking water facilities available:</strong></td>
<td>Separate water supply scheme through tap water.</td>
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<td><strong>4) Electricity:</strong></td>
<td>Electrified in 1964.</td>
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<td><strong>5) Medical facilities:</strong></td>
<td>One Primary Health Center.</td>
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<td><strong>6) School:</strong></td>
<td>One High School (Std I to X), and one College (XI and XII).</td>
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<td><strong>7) Marketing:</strong></td>
<td>Marketing place is available in this village selling of animals on large scale.</td>
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<td><strong>8) Co-operative system:</strong></td>
<td>2 Pat Sansthas and 2 Milk Co-operative Societies.</td>
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<td><strong>9) Grampanchayat:</strong></td>
<td>Established on 19/01/1944. 13 members out of which 2 members are of SC.</td>
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<tr>
<td><strong>10) Population:</strong></td>
<td>Total – 2171. Maratha (1495), Other (200), Mang (140), Mahar (130), Kumbhar (90), Chambhar (65), are prominent.</td>
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<tr>
<td><strong>11) Business/Occupation:</strong></td>
<td>Farming, cultivators, labourers, service.</td>
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<tr>
<td><strong>12) Land distribution:</strong></td>
<td>Total 556 Hectar 08 Aar. SC/ST – 18 Hectar 71 Aar.</td>
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Brief facts of the case:

The people of Mang caste of Kotoli used to bury the corpse in block No. 819, since the time immemorial. The said land belongs to accused viz

(1) Pandurang Balwant Khot – age - 77

(2) Krishnat Pandurang Khot, age - 30 both R/O - Village - Kotoli @ Malwadi

(3) Bhikaji Govind Prabhawale, age - 47

(4) Vinayak @ Dadaso Bhikaji Prabhawale, age - 19, both R/O village Kotoli and there was dispute between the accused and Mang community over the use of that land.

On 6/3/1994 at about 7 a.m. accused No.1 to 4 as noted above with the help of pick-axe and spade dug out 3 corpse of Matang caste, viz. Shankar Chavan's son, Shiva Sarvagode's daughter and Yalluhai Ananda Suryavanshi and thereby outraged the religious feelings of Mang caste and insulted the religion of Mang caste by committing trespass and by removing corpse. For the said alleged incident Shamrao Ananda Sawant, age - 25, Dy. Sarapanch of village Kotoli-Malwadi lodged the first information report on 6/3/1994 to Panhala Police Station, where an offence vide C.R. No. 14/94 U/S 295 (A), 297 I.P.C. R/W section 3 (1) (10) of Scheduled Caste / Scheduled Tribes (Prevention of Atrocities) Act – 1989 was registered against the above four accused vide station diary entry No. 13 at 0945 a.m. All the accused were arrested and the case was investigated by the then Prob. Dy. S.P. Supriya Patil and Police-Sub-Inspector P.G. Powar. After completing the investigation, the charge sheet against four accused was filed on 28/3/1994 in Special Court, Kolhapur where the Special Case No. 9/94 was given to this case.
Observations and findings of the court for acquittal of the case:

1) The caste certificate referred to above clearly shows that the relatives of prosecution witness have buried and therefore, it clearly proved that corpse were of Mang caste and accused removed those corpse.

2) There is no evidence on record to show that at the time of alleged offence accused knew that the corpse belonged to Scheduled Caste people and with that knowledge and intention they insulted or intimidated the corpse.

3) In respect of disputed land regular civil suit No. 111/93 was filed before the Civil Judge, Junior Division, Panhala and the interim injunction has been obtained against some of the prosecution-witnesses. Ad interim injunction was granted on 28/10/1993 and alleged offence took place on 6/3/1994. When court has passed order of status quo, the parties would not have interfered with the peaceful possession of the accused in the disputed land.

4) It cannot be said that accused have committed trespass.

5) In the instant case, it is not proved by cogent and convincing evidence that Mang caste was in possession of that particular portion of the land and that caste used it as burial ground. As Civil Court has banned the entry of other persons in the disputed land, the landlord cannot be held as trespasser. It can be seen from the record that in 7/12 extract of the disputed land i.e. block No. 819, only accused are shown as land lords and possessors. There is no mention of burial ground.

6) Not a single document has been produced by the prosecution to show that disputed land is ever used as burial ground for Mang caste.

7) It has come in evidence that survey No. 1687A of village Kotoli is reserved for caste Mang as a burial ground from the year 1990 onwards.
This has been admitted by Police Patil Shripati Sarvagode and Prob. Dy. S.P. Supriya Patil.

8) No independent witness has been examined to prove the fact that disputed land is used as burial ground by Mang caste.

9) From the cross examination of Dy. S.P. Supriya Patil, she did not collect record of the disputed land to show that it was used as burial ground for many years by Mang caste. She had also not recorded statements of surrounding witnesses of other castes.

The hearing of this case was done before Special Court (i.e. District and Sessions Judge) C.M. Dhopare. The Government pleader for this case was Subhash Pisal, Special Prosecutor for the State, while Peter Bardeskar was the advocate of defence of accused. The case was decided on 16/04/1996 i.e. Total period for decision of this case from the date of charge sheeting is 2 years and 19 days.

**Observations:**

1) Court has observed that investigating machinery has not produced main thing on record and collected evidence is very short to prove anything.

2) Findings at Sr. No. 2,5,6,8,9 of the above, court clearly indicates the lacunas made in investigation.

3) No scrutiny of papers has been made from senior police prosecutor as such lapse was observed.

4) The sections applied to the case are not proper as per the IGP (PCR) M.S. Mumbai's instructions vide circular No. PCR/41/ Anticipatory Bail/1998, Dt. 31/07/1998.
A Case of Damaging to Community Wall Construction around Mhasoba Temple by Attacking with Forming Unlawful Assembly.


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<td>1)</td>
<td>Name of Village: Nandani</td>
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<td>2)</td>
<td>Location of Village: 5 km from Jayasingpur. Approaching roads to Haroli, Jambhali, Shirdhon, Takawade, Dharangutti, Jayasingpur</td>
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<tr>
<td>3)</td>
<td>Drinking water facilities available: Water supply scheme through tap water. is available from last 30 years through Panchanganga River.</td>
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<td>5)</td>
<td>Medical facilities: Primary Health Center is available under Zilla Parishad capacity, started in 1991.</td>
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<td>6)</td>
<td>School: 1 High School (std I to X), 2 Primary Schools (separately one for girls and boys), 1 separate girls High School. Night School is also available.</td>
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<td>7)</td>
<td>Marketing: The village having marketing place from Grampanchayat office to S.T. stand.</td>
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<td>8)</td>
<td>Co-operative system: 3 Co-operative Societies, 1 Shetimal Sangh, 3 Co-operative Pat Sansthas, 2 Milk Co-operative Societies.</td>
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<tr>
<td>9)</td>
<td>Grampanchayat: Established on 01/04/1929. Presently 17 members.</td>
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<tr>
<td>10)</td>
<td>Population: Total – 6802. Jain (4000), Mahar (828), Lingayat (778), Muslim (416), Chambhar (209), are prominent.</td>
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<td>11)</td>
<td>Business / Occupation: Farming, trade, service, farm workers.</td>
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<tr>
<td>12)</td>
<td>Land distribution: SC – 46.58 Hector, ST – 149.68 Hector</td>
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Brief facts of the case:

The complainant in this case Shri. Limbaji Nana Chavan R/O village Nandani, Tal - Shirol, Dist - Kolhapur is the President of Kumbhar Samaj of village Nandani and also Deputy Sarapanch of Nandani Gram Panchayat. The complainant was trying for getting land for Chambhar caste in Nandani village. With his continuous effort towards Government, Collector of Kolhapur granted 50' x 30' land in C.S. No. 2008, to the Chambhar caste with deposit of Rs. 8250/- and allotted it to complainant on 31/10/1985. The Chambhar caste people constructed a temple on the same area on 1989. A small temple knowing as Mhasoba Devalaya was very adjacent to this temple. After completion of the construction of the Chambhar castes temple on 26/06/1991, the witness Shri Dhondiram Govind Kamble, age-45 R/O Nandani, presented a resolution in Gram Panchayat for construction of a compound wall for temple Mhasoba and Samaj Mandir. As per the report of Gram Panchayat, Panchayat Samiti, Shirol estimated Rs. 16,303/- for the construction of compound wall. On 25/01/94 the same was tabled before the Gram Panchayat members during monthly meeting. The members gave sanction to this and on 28/03/1994, and Rs. 10,000/- were allotted to complainant for the construction of compound wall from Backward Class Scheme fund.

On 29/07/1994 at about 11.30 a.m. when the complainant Shri Limbaji Nana Chavan with the help of Kumar Aannappa Chavan, age - 26, Changdev Dadu Devmane, age - 30, Chandrakant Dattu Chavan, age - 24 were constructing the compound wall to the Mahsoba temple, the accused No. 1 to 44 as listed in the charge sheet by making an unlawful assembly gathered at the spot of wall construction. Accused No. 1, Balgonda Appa Patil (Khanjire), age - 45 of Jain caste ordered the complainant for stopping the construction. That
time the complainant Shri. Limbaji Chavan told the accused Balgonda Patil that the work of construction of wall is as per prescribed area. The accused got annoyed, he picked up the collar of complainant Limbaji Chavan and by using caste words assaulted to complainant. Other accused also assaulted the witnesses Kumar Chavan, Changdev Devmane, Chandrakant Chavan with hard and blunt weapons and injured them and by forceful activities demolished the construction of compound wall and the small Mahsoba temple and put all the waste material i.e. bricks, stones, cement concrete material, wooden material in a tractor trolley and threw away elsewhere. Thus total damage of Rs. 25,000/- was made.

Section 7 (1) (d) of Protection of Civil Rights Act and section 3 (1) (10) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act – 1989 on 29/07/1994 at 2130 was registered against the above accused.

During the investigation the I.O. Shri. B.D. Patil, the then A.P.I. of Shirol Police Station made many mistakes and many complaints were made regarding investigation by the complainant to different agencies. The complaint was discussed on floor of assembly and from that discussion the enquiry has been given to Dy. SP: P.C.R. From that enquiry the then Dy. S.P. S.B. Mane ordered to prosecute again 44 accused and he reported for taking action against the I.O. also. Thus supplementary charge sheet was submitted against the accused namely (27) Surgonda Kalgonda Patil, age-60 (28) Sagar Shripal Latthe, age-35 (29) Shital Balwant Jugale, age-60 (30) Kalagonda Balgonda Patil @ Savantre, age-65 (31) Aappaso Balu Latthe @ Kaik, age-45 (32) Malagonda Balgonda Patil @ Kurundwade- age 50 (33) Balaso Devgonda Patil age-40, (34) Shailesh Aappaso Narade, age-23 (35) Ratnappa Balappa Mali age 40 R/O Karnal Dist- Vijapur (36) Nemanna Balesha Ainapure, age-65 (37) Mahadev Narasu Aswale, age-70 (38) Jaipal Aannappa Tipanna, age-50 (39) Bapu Ramchandra Patit, age-40 (40) Ramchandra Narayan Mhetre, age-65 (41) Vijay Mahadev Aswale, age-28 (42) Aannaso Devgonda Patil, age-45 (43) Ramgonda Anna Patil, (44) Kallapa Ramchandra Teli R/O Herwad, Tal-Shirol accused No. 1 to 34 and 36 to 43 R/O Village Nandani, Tal-Shirol. First charge sheet against 26 accused was submitted in the Special Sessions Court Kolhapur on 16/09/1994 and the Special Case No. 25/94 was given to it, and supplementary charge sheet was submitted against accused No. 27 to 44 by Bhimrao Jadhav P.I. P.C.R. Cell Kolhapur on 05/01/1998 i.e. three years after original charge sheet submission.
Court findings for acquittal of the case:

1) This incident was mainly related with the construction of compound wall around Samaj Mandir not with any caste.

2) The reason for incident is starting of the construction of compound wall.

3) No witness told the fact that the unlawful assembly disturbs any caste or Samaj Mandir.

4) Gram Panchayat issued a notice about illegal construction 2 days before incident and was put over the Samaj Mandir.

5) No evidence was available on record about obstruction by Sarpanch or other members to the construction of wall.

6) Complainant told that accused No. 36, 37, 38, 39, 40, 41 and 44 were not seen by him at the time of incident hence their names were not told during giving the complaint as also the fact does not reveals about accused No.5 Tare and accused No.7 Patil having iron weapons in their hand in the complaint. Besides this complainant in his evidence told that accused No. 26 Patil demolished the deity Mhasoba's stone, but he does not mention anything about it in the complaint. Again the complainant showed no confidence over the investigation machinery time to time and with the intention to disturb the accused by registering and adding the names. The complainant made improved version during evidence.

7) The witnesses Changdev Devmane and Kumar Chavan gave evidence which was more than the version they told before police, which is not reliable.
8) Although complainant and other witnesses having no serious injuries the certificates does not proves the reality as per evidence.

9) No evidence to show use of caste words on record.

10) No "God Mhasoba" was on record of city survey alongwith the temple as also it does not reveals in spot panchanama. No seizure of such "God Mhasoba's" was done on 30/07/1994.

11) The witness Suresh Pol told that the compound walls construction was upto starting point only. No wall construction was started.

This case was started for hearing before Special Judge i.e. Nandkishor D. Deshpande, (Dist. and Sessions) Special Judge, Kolhapur. The Govt. Pleader for this case was Smt. Chhaya Gaikwad, Special Public Prosecutor, while Kum. Nirmala J. Bardeskar, A.N. Bhupali, and M.B. Chougule are the lawyers for defence of the accused. The case was decided on 17/05/2000 i.e. total period for decision of case from registration is about 5 years 10 months while after supplementary charge sheet 2 years 4 months.

**Observations :**

1) Investigation was not done properly.

2) Evidence to prove the facts of the case was not collected properly.

3) Investigation was done as per the complainant, revised complaint, and hence the evidentiary value of the case became valueless.

4) Improper evidence of witnesses during evidence in court.

5) The complainant himself told different facts during the evidence which he did not told during the time of complaining and giving supplementary statements.