

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.224 OF 2015

Nareshkumar Rajpal Bagadi

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Pankaj D. Kavale for the Applicant.

Smt. P.P. Bhosale, APP for the Respondent-State.

CORAM:-M.L. TAHALIYANI, J.

DATED :7th MAY, 2015.

P.C.

Admitted. Heard finally.

2. Heard learned counsel for the respective parties.

3. The Applicant is facing trial for the offences punishable under sections 302 and 392 of the IPC. Evidence of prosecution witnesses is over. Investigating Officer also has been examined. At this stage an application is made on behalf of the prosecution to examine Police Officer, who had arrested the Applicant and to examine one Bhavarlal, who has allegedly sign the receipt which was recovered at the instance of the Applicant. Learned Trial Judge after

hearing both the sides has granted prayer of prosecution and has decided to grant permission to prosecution to examine these two witnesses.

4. The Applicant is aggrieved by the said order. It is submitted by the learned counsel for the Applicant that the statement of Officer, who had arrested the Applicant has not been recorded and that there is nothing in the whole evidence that the Applicant was arrested by some other officer than the Investigating Officer. It is further submitted that nephew of Bhavarlal was examined and that he categorically stated in the evidence that receipt in question was signed by him (PW.4). It is the contention of the learned counsel for the Applicant that in the circumstances application on behalf of the prosecution is with a view to fill up the lacunas in the prosecution case.

5. It appears that case is based on circumstantial evidence and the lady had died due to cut throat injury. It is therefore, necessary to give reasonable opportunity to the prosecution to adduce all the evidence to complete the chain of circumstantial evidence. If the evidence is available the Court cannot shut the doors. The Applicant's counsel will at once at liberty to cross examine the

witnesses. It may be noted here that if the Applicant is arrested by local crime branch and was then handed over to Kashimira Police Station, why there should be an objection for examining the Officer, who had arrested the Applicant. At the same time, if PW4- nephew of Bhavarlal has stated in his examination that signature belonged to P.W.4 himself, examination of Bhavarlal may in fact assist the defence also to put up their case before the Trial Court.

6. As such, in my opinion, no prejudice will be caused to the Applicant if these two witnesses are examined. In the circumstances, revision application is dismissed. The prosecution is allowed to examine the two witnesses as prayed by them before the Trial Court.

(JUDGE)