

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 897 of 2015

IN

CRIMINAL APPEAL No. 572 of 2015.

Sushilabai Himmatrao Patil ..Applicant/Intervener.

IN THE MATTER BETWEEN:-

Salman Salim Khan ..Appellant.

Vs

The State of Maharashtra ..Respondent.

Mr M.L. Sharma i/by P.R.Sharma a/with Srikant Padhi for the Applicant/Intervener.

Mr S.K.Shinde, Public Prosecutor a/with Deepak Thakare, APP for the State.

CORAM : A.R.JOSHI,J

DATED : 30th July, 2015

P.C. :

1) Heard learned counsel for the applicant /intervener. Also heard learned APP for the State.

2) This is an application preferred by one Smt. Sushilabai Himmatrao Patil asking for an impleadment as the respondent party in the present Appeal No. 572 of 2015. 3) The appeal is preferred by the convicted accused challenging his conviction for the offence u/s 304 Part II, 338, 337, 279 and 427 of IPC and other sections of the Motor Vehicles Act and Section 66 (1) (b) of the Bombay Prohibition Act.

4) It is submitted on behalf of the present applicant that she is the mother of the first informant, one Ravindra

Patil, who had lodged the complaint with the concerned Police Station and out of registration of the offence on his complaint, a criminal case proceeded before the trial Court and in the said case the present appellant was convicted and the present appeal was filed by the said convicted accused challenging his conviction.

5) It is also submitted that during the pendency of the trial which arose out of the complaint lodged by Ravindra Patil son of the present applicant, said Ravindra Patil was examined and cross-examined but he died some time in the year 2007. It is further argued that his death is suspicious and as such the inquiry to that effect is required to be initiated and that ordeal can be done in the present appeal and as such the present applicant be allowed to intervene, further argued.

6) It is also argued that the present applicant can be considered as the victim as contemplated by proviso to Section 372 of Cr.P.C.

7) On the above submission, it is to be ascertained by this Court whether there is a locus for the present applicant – mother of one Ravindra Patil, who was the de facto complainant in criminal case wherein the present appellant was charged, can be considered as a victim in the

matter of offences for which the appellant was tried and convicted. It is an admitted position that said Ravindra Patil was not the injured in the said accident for which he lodged the complaint with the police. Without going into much details of the said accident, suffice it to say that in the said accident one person died and four other persons were injured. Not at all, it was the case of Ravindra Patil who lodged his complaint that he also sustained injuries in the said mishap. As such, considering the definition of the victim vis-a-vis the case at hand before this Court in appeal even said Ravindra Patil cannot be considered as a victim and after his death his mother.

8) There are various prayers in the present application which are reproduced herein for the sake of ready reference:-

“28. (a) That this Court be pleased to issue appropriate order or direction to add name of the petitioner in the instant Criminal Appeal No. 572 of 2015 as respondent AND

(b) This Court be pleased to cancel suspension/bail order dt 8.5.2015 passed in Criminal Appeal No. 572 of 2015 of the accused in the interest of justice.

(c) This Court be pleased to direct accused to file conviction orders of 2006 passed in Jodhpur Rajasthan in two cognizable offence u/s 51 of the Wild Life (Protection) Act, 1972. AND

(d) That this Court be pleased to issue appropriate order or direction to the appellant to provide copy or direction to the appellant to provide copy of the complete appeal to the petitioner in the interest of justice. AND

(e) Also be pleased to allow the present petition with cost in favour of the petitioner and against the respondent. AND

(f) This Hon'ble Court be pleased to issue direction, order, any other and/or further orders as this Court may deem fit and proper in the facts and the circumstances of the case.

9) Prayer (b) is for cancellation/suspension of the bail order passed in favour of the present appellant. Prayer (c) is regarding directing the appellant to produce certain orders of some court at Jodhpur (Rajasthan) in two cognizable offences under the Wild Life Protection Act.

10) In the considered view of this Court, the present applicant cannot have any locus to intervene in the present appeal in which the challenge is to the conviction for the offences as detailed earlier. Needless to mention that if at all there is any grievance of the mother of Ravindra Patil who had lodged the complaint, appropriately said grievance can be redressed by initiating appropriate action before the Competent Forum and not in this appeal, if apparently there

are allegations of any *malafides* behind the death of Ravindra Patil which occurred in the year 2007. In any event, there is nothing to entertain the present application for intervention and same is accordingly dismissed and disposed of.

(A.R.JOSHI, J.)

Ladda (PS.)