

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 256 OF 2014

Mangesh Narayan Kumbharkar

... Applicant.
(Org.Accused No.1)

V/s.

State of Maharashtra

... Respondent.

Mr. Biju Antony Aloor, Advocate for the Applicant.

Mr. D.R. More, APP for the State-Respondent.

CORAM : M.L.TAHALIYANI, J.

DATE : 06 JANUARY, 2015

P.C. :

1 Heard the learned counsel appearing for the Applicant and the learned additional public prosecutor Mr. More for the State.

2 I have perused the impugned order in sessions case no. 704 of 2012 passed by the additional Sessions Judge, Pune. The Applicant is aggrieved by the said order by which the application of the applicant for discharge was rejected by the additional Sessions Judge. The Applicant is facing trial for the offence punishable under sections 307, 323, 504 read with 34 of the IPC.

3 The FIR was registered against the Applicant and others. On 4th May, 2012 on the complaint given by the eye witness - Raju Baban Devane, the names of three persons including the applicant appeared in the column of the accused in the FIR. After investigation, chargesheet had been filed against three persons. It is the case of the Respondent -State that the Applicant had conspired with others to assault the victim-Ravi @ Jivan G.Kamble.

4 The learned counsel Mr. Aloor appearing for the Applicant has submitted that there is no material against the Applicant which could be sufficient to frame charge for the offence with which the Applicant has been chargsheeted by the police. It was brought to my notice that though the name of the Applicant appeared in the FIR, the first informant Mr. Raju B. Devane had later on stated before the police that he mentioned the name of the Applicant in the FIR because certain other persons had told him that the Applicant was involved in the alleged offence. The police have not recorded statements of other persons who gave this information to the informant to ensure that the Applicant was present at the time of the incident in question.

5 So far as the conspiracy is concerned, there is no material to indicate that the Applicant was involved in conspiracy with the assailant. In view thereof, the discharge

application should have been allowed by the learned trial Judge.

6 Hence, the order passed by the learned Sessions Judge is set aside. The Applicant is hereby discharged of the offence with which he has been charge-sheeted by the police in sessions case no. 704 of 2012, pending in the court of additional Sessions Judge, Pune.

7 Criminal Revision Application stands disposed of accordingly.

(JUDGE)

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