

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

CRIMINAL APPLICATION NO. 420 OF 2015
IN
CRIMINAL APPLICATION NO. 355 OF 2015
IN
CRIMINAL REVISION APPLICATION (ST) NO.413 OF 2015

Rajesh M. Kamble ..Applicant/Intervenor

In the matter between
Rubabuddin Shaikh .. Applicant

v/s.

Amit Anilchandra Shah & Anr. ..Respondents

Mr.Rajesh Kamble for the Applicant Intervenor
Mr. Mihir Desai, Sr. Counsel a/w. Vijay Hiremath for Rubabuddin Shaikh.
Mr.V.K.Raju for the respondent No.1.
Mr. S.K.Shinde for the CBI.
Mrs. R.V.Newton, APP for the State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : OCTOBER 21, 2015.**

P.C.

1. The applicant-intervenor herein has filed this application to oppose the withdrawal of the delay condonation application No.355 of 2015 as well as the Revision Application No.413 of 2015 filed by Rubabuddin Shaikh, the applicant in the above application and the

criminal revision application. The applicant has further prayed for taking suo-moto cognizance of the impugned order dated 30.12.2014 in discharge application No.177 of 2013.

2. The applicant herein was heard on the locus to file the application. Mr.Kamble learned Counsel for the applicant-intervenor has submitted that as an alert citizen he is entitled to intervene in the case which involves crime against the society. Relying on the decision in the case of *A.R.Antulay v. Ramdas Srinivas Nayak (1984) 2 SCC 500* he contends that it is well settled principle of criminal jurisprudence that any one can set the criminal law in motion.

3. Mr. Desai, learned Counsel for the applicant- Rubabuddin, Mr. S. Raju learned Counsel for the respondent and P.P. Shri Shinde for the C.B.I., have submitted that that the applicant is not an aggrieved person and has no locus standi. Learned Counsel Mr. Desai for the respondent submitted that the application is not bonafide and is politically motivated. Learned Counsel Mr. S. Raju has relied upon the judgments in the case of *Manharibhai Muljibhai Kakadia &*

Anr. vs. Shaileshbai Mohanbhai Patel reported in (2012) 10 SCC 517, (2) Thakur Ram vs. State of Bihar AIR 1966 SC 911 and (3) Sudeepkumar Bafna vs. State of Maharashtra & Ors. AIR 2014 SC 1745.

4. At the outset, it may be mentioned that in the case of A.R.Atulay (supra), the Apex Court has reiterated the well recognized principle of criminal jurisprudence that anyone can set the criminal law in motion, except when the statute creating the offence indicates contrary. The said decision is not applicable to the facts of the present case as the applicant herein has not sought to set the criminal law in motion, but has sought to intervene in a revision application filed by the applicant Rubabuddin . The question involved in the case in hand is whether the applicant has locus standi to intervene in a revision application. As rightly argued by Mihir Desai and Mr. S.V. Raju, the learned Counsels for the applicant Rubabuddin and respondent Amit Shah, the applicant intervenor is neither a victim nor an aggrieved person. The applicant-intervenor cannot be

regarded as having suffered any prejudice. The meaning of the expression “ Prejudice” has been considered by the Apex Court in Manharibhai (supra) to mean harm, injury, damage or detriment to one's legal right. In the instant case, the applicant has not demonstrated that his legal rights are impaired or any harm, injury is caused or is likely to be caused to him. The applicant therefore has no legal right to intervene in the proceedings.

5. It is also to be noted that the crime was registered in the year 2006. The applicant intervenor had not participated in the proceedings either before the trial court, High Court or the Apex Court. As rightly submitted by the counsels for the applicant Rubabuddin and the respondent Amit Shah, the applicant intervenor has not assigned any reasons for taking sudden interest in this proceeding. The bonafides of the applicant intervenor are therefore in question. As it has been held by the Apex Court in ***Thakur Ram & Ors. vs. The State of Bihar AIR 1966 Supreme Court, 911*** “The criminal law is not to be used as an instrument of recking private

vengeance by an aggrieved party against the person, who according to that party, had caused injury to it. Barring a few exceptions, in criminal matters, the party who is treated as aggrieved party is the State which is the custodian of the social interest of the community at large and so it is for the State to take all the steps necessary to bring the person who has acted against the social interest of the community to book.” In the instant case the State had not challenged the order of discharge. Nonetheless, the applicant Rubabuddin, who is the brother of the deceased Shorabuddin has filed the revision application. The applicant is not an aggrieved person and has no legal right to raise any grievance or to intervene in the matter.

6. Under the circumstances, in my considered view, the applicant has no locus standi to intervene in the said revision application and hence the application is dismissed.

(ANUJA PRABHUDESSAI, J.)