

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Application (APL) No.724 of 2014

Mr. Gajanan Mahadevrao Jadhav

-Vrs.-

The State of Mah. And one

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri F.T. Mirza, advocate for applicant.
Shri Ukey, APP for respondent no.1.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 09th JUNE, 2015

Heard Advocate Mirza for applicant and learned
APP for respondent no. 1. Nobody for respondent no. 2
complainant.

Prayer is to quash and set aside FIR no. 120/2014
dated 30.10.2014 registered under section 304-A IPC on
complaint made by respondent no.2. This court has on
20.11.2014 issued notice for final disposal. Though fresh
notice was again issued on 31.3.2015 and respondent no.2 is
served before 1.6.2015, there is no appearance for him in the
matter.

According to Advocate Mirza, petitioner owns a
thresher machine and it was being used for thrashing 'Soyabin'
in same condition in which it is delivered by manufacturer
company. There was no alteration or modification in it and
hence for unfortunate incidence or accident which took place

on 30.10.2014 petitioner cannot be blamed. He, therefore, seeks quashing of FIR.

Learned APP has filed reply on affidavit. He submits that thresher machine was being operated with the help of power of the tractor and for that purpose a brick was placed on accelerator pedal of that tractor. There was nobody provided to operate the tractor and therefore there is rash and negligent act or gross negligence.

With appreciation of respective counsel, we have perused the complaint lodged by respondent no. 2. It shows that he learnt about the incident from other villagers in village that hand of his cousin Mohan was caught in thrasher machine while feeding 'Soyabin' therein and thereafter his head also went inside that machine and he died. After learning about this accident, he visited the field and found his cousin in that position entangled in thrasher machine. He has also given names of other persons who were present on spot along with the owner of thresher machine i.e. present applicant. The report further mentions that owner of thresher machine had not made any safety provision and therefore hand of his cousin got caught in the thresher machine and thereafter his head was separated from the body.

This complaint does not point out any tampering with thrasher machine by petitioner or by anybody on his behalf. It is not recorded that the thresher machine which was being operated was different than the one which is being sold by the manufacturer thereof. Perusal of reply affidavit shows that thresher machine was getting power from tractor

which was stationary. To maintain the continuous supply of power a brick was placed on accelerator pedal of that tractor. How placing of brick by itself constitutes a rash and negligent act has not been established.

Material on record does not show any rash and negligent act on the part of applicant/owner of thresher machine.

We, therefore, find cognizance of offence on the strength of complaint unsustainable. Accordingly, FIR No.120/2014 registered under section 304-A IPC with Yevda Police Station, District Amravati is quashed and set aside. No costs.

Hirekhan

JUDGE

JUDGE