

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 837 OF 2016

SURESH MUKUND SONWANE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA.

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Advocate for Applicants : Mr. Patil Prakashsing B.
APP for Respondents: Mr. N.B. Patil

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CORAM : V. K. JADHAV, J.
DATED : 23rd FEBRUARY, 2016

PER COURT:-

1. The applicants are the original accused in Sessions case No. 57 of 2015. The applicants original accused filed an application at Exh.44 requesting therein to the court to examine two police Officers, as mentioned in application Exh.44, as court witnesses. The learned Additional Sessions Judge, Jalgaon by impugned order dated 12.1.2016, filed the said application, with observation that it is not desirable to issue directions to the prosecution as to examination of particular witness or to drop a particular witness. The learned Additional Sessions Judge has further observed that there is no necessity to call any witness for the aforesaid reasons under section 311 of Cr.P.C. Hence, this criminal application.

2. Learned counsel for the applicants submits that the husband of the complainant allegedly committed suicide on 7/8.11.2013. Initially

A.D. No. 117 of 2013 came to be registered on 8.11.2013 and accordingly police head constable viz. Rajiv Magar attached to M.I.D.C. police station, Jalgaon was assigned with the enquiry of accidental death. During the course of enquiry of said accidental death, wife of deceased Bhusan, lodged a complaint on 27.1.2014. Prior to that on 24.1.2014 in order to explore the possibility of settlement, between the parties, the police head constable Shri Magar produced both the parties before Dy. S. P. Shri Prashant Bacchav. However, no settlement was arrived at. Thereafter, applicant No.1 Suresh made a complaint before the police authorities that he was pressurized by Dy. S. P. Shri Bacchav to settle the matter. In the light of the said allegations, the Additional Superintendent of Police, Jalgaon conducted enquiry into the matter and recorded statements of said police constable Magar and Dy. S.P. Shri Bacchav. Pursuant to the said enquiry and after recording statements, the Additional Superintendent of Police, Jalgaon submitted a report and accordingly the said complaint was filed.

3. The applicants original accused thus want to examine the said two police witnesses i.e. the police head constable Raju Magar and Dy. S. P. Shri Prashant Bacchav, as court witnesses to prove the contents of inquiry report and also cross examine them on certain points. So far as the said enquiry report submitted by the Additional

Superintendent of police is concerned, the applicants-accused may produce the certified copy of the said enquiry report before the Sessions Court alongwith list, as provided under Section 294 of Cr.P.C. and may call upon the prosecution to admit or deny the genuineness of the said enquiry report. If the prosecution accepts the genuineness of said documents, the enquiry report may be read in evidence in the trial. In that way, there is no necessity of examining of those two witnesses, as Court witnesses.

4. In the light of these observations, criminal application is disposed of.

(V. K. JADHAV, J.)

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