

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 896 OF 2016
IN/WITH
CRIMINAL REVISION APPLICATION ((ST) NO. 38 OF 2016**

Ashok s/o Ramdas Borekar,
Age: 52 years, Occ: Labourer,
R/o. Shriramnagar, Yawal,
Tq. Yawal, Dist. Jalgaon & ors.

...Applicants

versus

The State of Maharashtra,
through Yawal Police Station,
Yawal, Dist. Jalgaon & anr.

...Respondents

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Mr. A.S. Londhe, Advocate for applicants
Mr. A.S. Shinde, A.P.P. for respondent No.1
Mr. N.E. Deshmukh, Advocate for respondent No. 2

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CORAM : N.W. SAMBRE, J.

DATE : 9th JUNE, 2016

ORAL ORDER :

In view of no objection and reasons stated in the application, delay caused in preferring revision stands condoned. Criminal Application No. 896 of 2016 stands allowed.

2. Present revision is directed against the order of learned Additional Sessions Judge, Bhusawal, rejecting the application below Exhibit-24 in Sessions Case No. 252 of 2014 preferred by the present applicants seeking their discharge.

3. It is the contention of applicants that looking to the nature of injuries suffered by the complainant and weapon as has been alleged to have been used, recovery made from the accused persons, the applicants are entitled for discharge, particularly in relation to an offence punishable under Section 307 of the Indian Penal Code. So as to substantiate his contention, learned Counsel for the applicants has invited my attention to the counter first information report lodged against the complaint at the behest of the applicants though respondent-complainant is acquitted in the said counter first information report. According to him, the Court must take judicial note of the fact that in absence of recovery of sword as has been claimed in the commission of crime, the applicants are entitled for discharge.

4. Learned Sessions Judge, while rejecting the application below Exhibit-24, has observed that there are sufficient evidence to proceed against the accused persons. Learned Sessions Judge was alive of the role attributed to each applicant and just because there is variance qua recovery and allegation in regard to use of weapon, in my opinion, this Court cannot exercise power under revisional jurisdiction to discharge the applicants-accused. No case for interference is made out.

5. Though the applicants have preferred an appeal against the acquittal ordered in favour of the complainant-respondent, same will be of hardly any assistance at this stage.

6. As such, criminal revision fails, stands rejected.

[N.W. SAMBRE, J.]