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

**CRIMINAL REVISION APPLICATION NO. 130 OF 2004**

Shri. Sheshrao s/o Govindarao Rakhunde,  
Age: 52 years, Occu: Agriculture,  
R/o. Digras, Tq. Hingoli,  
Dist. Hingoli ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

WITH

**CRIMINAL REVISION APPLICATION NO. 131 OF 2004**

Shri. Uttamrao s/o Rambhaji  
@ Sambhaji Wabale,  
Age: 43 years, Occu: Agriculture,  
R/o. Umara, Tq. Hingoli,  
Dist. Hingoli ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr P.B. Patil, Advocate for applicants;  
Mr R.V. Dasalkar, A.P.P. for respondent

**CORAM : N.W. SAMBRE, J.**

**DATE : 25th August, 2016**

**ORAL JUDGMENT :**

By an order dated 18<sup>th</sup> February, 2004  
passed below Exhibit Nos. 110 and 112 in Sessions

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Case No. 14 of 2000 and below Exhibit Nos. 132 and 135 in Sessions Case No. 31 of 2001, learned Sessions Judge, Hingoli has refused to withdraw the prosecution pursuant to the provisions of Section 321 of the Code of Criminal Procedure. As such, present criminal revision applications.

2. It is required to be noted from the record that one Sayyed Kamroddin Shaikh Isakh, who was working as Conductor with the State Transport Corporation at Amravati S.T. Depot, lodged complaint on 10<sup>th</sup> December, 1986 alleging that bus on which he was performing his duty was set on fire and collection of cash from the passengers was sought to be taken away resulting into Crime No.73 of 1986 for the offence punishable under Sections 307, 427, 437, 353, 337, 147, 148, 149 of the Indian Penal Code and under Section 135 of the Bombay Police Act in Criminal Revision Application No. 130 of 2004 and Crime No. 72 of 1986 was registered pursuant to the complaint lodged by Circle Police Inspector, Kalamnuri, for then

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offence punishable under Sections 307, 435, 436, 332, 337, 341, 342, 427, 353, 337, 147, 148, 149 of the Indian Penal Code and under Section 135 of the Bombay Police Act and under Section 25 of the Arms Act in Criminal Application No. 131 of 2004.

3. The State Government, Home Department, vide communication dated 23<sup>rd</sup> January, 2003 in Criminal Revision Application No.130 of 2004 and dated 31<sup>st</sup> July, 2003 in Criminal Application No. 131 of 2004, has informed District Magistrate, Hingoli that the State, after consultation with the Law and Judicial Department, has decided to withdraw the prosecutions initiated against the present applicants, pursuant to the provisions of Section 321 of the Code of Criminal Procedure. In view of the said decision of the State Government, the application came to be moved pursuant to the instructions of the District Magistrate before learned Sessions Court for withdrawing the prosecution, which came to be rejected by the impugned order.

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4. Perused the contents of the order impugned. It is required to be noted that the alleged incident took place on 10<sup>th</sup> December, 1986 i.e. almost 30 years from today. Apart from above, it is required to be noted that the State Government has right to withdraw the prosecution in view of provisions of Section 321 of the Code of Criminal Procedure and accordingly, the State Government has taken decision to order the withdrawal of prosecution.

5. In my opinion, no purpose would be served even by continuing the prosecution as has been ordered by learned Sessions Judge, particularly when the incident in question is 30 years old and State Government has already ordered withdrawal of the prosecution.

6. As such, both the criminal revision applications need to be allowed. Hence, the following order :-

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The order dated 18<sup>th</sup> February, 2004 passed below Exhibit Nos. 110 and 112 in Sessions Case No. 14 of 2000 and below Exhibit Nos. 132 and 135 in Sessions Case No. 31 of 2001 by learned Additional Sessions Judge, Hingoli are hereby quashed and set aside. The applications filed below Exhibit Nos. 110 and 112 in Sessions Case No. 14 of 2000 and below Exhibit Nos. 132 and 135 in Sessions Case No. 31 of 2001 stand allowed.

7. Both the criminal revision applications stand allowed in above terms.

**(N.W. SAMBRE, J.)**

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