

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

**Criminal Revision Application No. 365 of 2004**

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| District : Osmanabad |
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Madhavrao Laxmanrao Gurjar,  
Age : 50 years,  
Occupation : Service  
(presently serving as SDPO,  
Sailu),  
R/o. Plot No.46, "Ganga",  
Chatrapatinagar, Garkheda,  
Aurangabad.

.. Applicant.

**versus**

1. The State of Maharashtra  
(Through the Secretary,  
Home Department,  
Mantralaya, Mumbai).

2. Vivek Raghunath Pandit,  
Age : 38 years,  
Occupation : Nil,  
R/o. Uргаon Dongri,  
Taluka Vasai,  
District Thane (M.S.).

.. Non-applicants.

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*Mrs. Vasundhara Rao, Advocate, for the  
applicant (Absent).*

*Mr. K.S. Hoke Patil, Addl. Public Prosecutor,  
for non-applicant no.01.*

*Mr. Govind Kulkarni, Advocate, holding for  
Mr. Rajendra S. Deshmukh, Advocate, for  
non-applicant no.02.*

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**CORAM : Z.A. HAQ, J.**

**DATE : 14TH DECEMBER 2016**

**ORAL JUDGMENT :**

None appeared for the applicant on 08th December, 2016. The matter was adjourned. Today again none appeared for the applicant when the matter is called out.

02. I have examined the record of the application with the assistance of the learned Addl. Public Prosecutor.

03. The applicant - accused has challenged the order passed by the Sessions Court rejecting the application (Exhibit No.141) filed by the accused praying that he be discharged from the prosecution for the offence punishable under Sections 302, 201, 193, 196, 197, 198, read with Section 34 of the Indian Penal Code and Section 3(2)(v), (vi), (vii) & (viii) and Section 4 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

04. The main contention of the petitioner is that his prosecution is unsustainable as it is initiated without an order of sanction as required by Section 197 of the Code of Criminal Procedure, 1973.

According to the prosecution, accused nos.01 and 02 were given the impression that if they give sacrifice of any human being in the well on the day of new moon, then the well would be full of water and the accused nos.01 and 02 decided to give sacrifice of human being and committed the offence which resulted in death of Rajabhau Limbraj Londhe.

The applicant, who is accused no.10, was working as Dy. Superintendent of Police at the relevant time. The allegations against the applicant (accused no.10) are that he intentionally and deliberately concealed the evidence in collusion with other accused and filed the report under Section 169 of the Code of Criminal Procedure, 1973, against accused nos.02 to 08, which included accused no.04. The accusations against accused no.04 are that at the relevant time he was working as an Engineer with the Maharashtra State Electricity Board and he had issued a false certificate showing that there was no supply of electricity at the relevant time, of which the accused nos.01 and 02 wanted to seek advantage to falsify the claim of the prosecution that Rajabhau Limbraj Londhe was given electric shock because of which he died.

05. The learned Addl. Sessions Judge has rightly recorded that the nature of accusations against the applicant are of such nature that at this stage it

cannot be said that the prosecution against him is unsustainable for want of sanction under Section 197 of the Code of Criminal Procedure, 1973. I do not find any infirmity or illegality in the impugned order.

06. The Revision Application is dismissed. In the circumstances, the parties to bear their own costs.

( Z.A. HAQ )  
JUDGE

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