

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 246 OF 2015

Vitthal S/o Devrao Dhole

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr. S.N. Janakwade, Advocate for the applicant
Mr. S.J. Salgare, A.P.P. for the respondent/State

CORAM : N.W. SAMBRE, J.

DATE : 20/06/2016

ORAL ORDER :

Heard.

2. In Sessions Case No.15 of 2013, which is arising out of crime no. 115 of 2011 for the offences punishable under section 302, 306, 498-A r/w. 34 of the Indian Penal Code, the present applicant, husband of deceased - Archana came to be implicated as an accused in view of the supplementary statement given by the complainant - Baliram on 21/4/2012. The chargesheet came to be filed against the applicant for the said offences.

3. The application under section 227 of the Code of Criminal Procedure for discharge came to be moved by the present applicant stating that there is no material whatsoever for engaging the present applicant to the crime in question and his implication appears to be false. The said application came to be rejected by order dated November 2, 2015 passed by the learned Additional Sessions Judge, Nanded. As such, the present Revision Application.

4. Amongst others, the main submission that is pressed into service by the learned counsel for the applicant is that the learned Additional Sessions Judge, Nanded, while dealing with the application for discharge, has lost scope of section 227 of the Code of Criminal Procedure. According to him, the order passed by the learned Additional Sessions Judge is cryptic one and not sustainable, as the learned Additional Sessions Judge has failed to exercise the discretion vested in him.

5. The learned A.P.P. supports the order based on the material available on record.

6. With the assistance of respective parties, I have perused the record. It is required to be noted that but for the stray observation in paragraph no.7 of the impugned order, the learned Additional Sessions Judge has recorded vague reasons while rejecting the claim of the applicant for discharge. In my opinion, the learned Additional Sessions Judge, Nanded should have considered the claim of the applicant, particularly in view of the grounds raised in the application for discharge and while dealing with the same, should have recorded sound reasons.

7. For the reasons aforestated, in my opinion, the order impugned dated November 2, 2015 passed by the learned Additional Sessions Judge, Nanded is hereby quashed and set aside. The application at Exhibit 24 moved under section 227 of the Code of Criminal Procedure for discharge stands restored to the file of the learned Additional Sessions Judge, Nanded, with a further direction to decide the same afresh in the light of the observations made hereinabove.

8. Criminal Revision Application stands partly allowed in the above terms.

[N.W. SAMBRE]
JUDGE

arp/