

FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.326 OF 2013

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mrs. Anamika Malhotra, APP. for the State.

Ms. Farishta Menon i/by Nitin Pradhan for Respondent Nos. 9 to 11 & 13 to 16.

CORAM : A.S.GADKARI, J.**DATE : 26th April, 2016.**

P.C.

Heard the learned APP and the learned counsel appearing for the respondents.

2) By the present revision, the State of Maharashtra has challenged the order dated 11.5.2012 passed below Exhibit-35 in Sessions Case No.26 of 2010 by the Additional Sessions Judge, Sindhudurg at Oras. The record discloses that CR No.133/2010 under Section 302,364,201,109,212,149 of the Indian Penal Code was registered at Kankavali Police Station, District Sindhudurga against the respondents. After completion of investigation the police have filed the final report as contemplated under Section 173 of the Code of Criminal Procedure which was now culminated into Sessions Case No.26/2010.

3) That, during the course of investigation the police had seized one handkerchief (torn condition) having faint red stains over it. The said

handkerchief was sent to the Forensic Science Laboratory on 21.1.2010. The Forensic Expert had submitted a report that grouping of blood which was alleged to have been found on the said handkerchief could not be detected and found to be inconclusive. That during the course of trial the learned Public Prosecutor submitted an application for return of the said handkerchief for the purpose of sending it to the Forensic Laboratory for DNA profiling and for matching with blood sample of the relatives of the deceased in order to ascertain as to whether the said blood stains on the handkerchief were belonging to the deceased Rajesh Bhagwan Kadam. The said application was moved in the premise that Investigating Agency was changed from local police to State CID and that further investigation was carried out. The learned Trial Court rejected the said application by the impugned order.

4) I have perused the entire record made available before me. It appears from the record that it is the specific allegation against the accused persons so also it is the defence of the respondents that the said crime is registered against them out of political enmity and rivalry. It is further to be noted here that the first report issued by the Forensic Laboratory revealed that the red stains or the alleged blood stains found on the said handkerchief could not be analyzed and were inconclusive in nature. Sending the same handkerchief again to the Forensic Laboratory for effecting DNA profiling and for matching with the blood sample of the relatives of the deceased, according to me is of no avail to the prosecution at this stage. I further find that no purpose will be served by sending the same to the Forensic Laboratory after the gap of 6- years. In view of the peculiar facts and circumstances of the case I am of the opinion that there is no error committed by the learned Trial Court while rejecting the application below Exh.35. I find no merit in the application. Application is accordingly dismissed.

(A.S. GADKARI, J.)