

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3195 OF 2016

Ashish Anand More & ors. .Petitioners

Vs.

The State of Maharashtra & anr. .Respondents

Mr.S.Sule i/b. Mr.B.A.Lawate, Advocate, for the
Petitioners

Ms Pallavi Dabholkar, APP, for the Respondent
No.1 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 07.10.2016

P.C.

. Heard learned counsel for the
Petitioners and the learned APP for the
Respondent No.1 – State.

2. Rule. Rule is made, returnable
forthwith with the consent of parties and is
taking up for final disposal forthwith. Learned
APP waives notice on behalf of Respondent No.1 –
State.

3. Learned counsel for the Petitioners does not press this Petition qua Petitioner Nos.1 & 3, as this Court was not inclined to consider their prayer for discharge. He submits that the Petitioner Nos.1 & 3 are ready to face the trial. Learned counsel for the Petitioners submits that as far as the Petitioner Nos.2 & 4 are concerned, they are the brothers-in-law of the deceased and that there are no allegations against them. He submits that not a single witness has deposed against the Petitioner Nos.2 & 4 and only there is a passing reference of the Petitioner No.4 on page No.106 of the Petition. He submitted that considering that there is no material to proceed qua the Petitioner Nos.2 & 4, they be discharged.

4. Learned APP fairly states that there is no material/allegations qua Petitioner Nos.2 & 4 i.e. the brothers-in-law of the deceased. She also does not dispute the fact, that there is

only a passing reference to the Petitioner No.4 on page No.106 of the Petition.

5. Perused the papers. By this Petition, the Petitioner Nos.2 & 4 seek quashing and setting aside of the impugned order dated 05.08.2016 passed by the learned Addl. Sessions Judge, City Civil & Sessions Court, Greater Mumbai, by which their Application for discharge from the offences punishable under Sections 306, 498A r/w.34 of the Indian Penal Code came to be rejected.

6. Perused the entire charge-sheet. Neither has the Complainant nor have the sisters of the deceased nor have any witness attributed any overt act to the Petitioner Nos.2 & 4 in their statements. In fact, the Petitioner Nos. 2 & 4 have not been named by any witness. No role has been attributed to them by any witness. Similarly, there is a passing reference to

Petitioner No.4's name, however, the said allegation by itself, is not sufficient to constitute the offences punishable under Sections 306, 498A r/w.34 of the Indian Penal Code qua the Petitioner Nos.2 & 4.

7. Considering the fact, that there is absolutely no material to proceed qua Petitioner Nos.2 & 4, the Petition is allowed. Rule is made absolute on the following terms:

(i) The Petitioner Nos.2 & 4 are discharged from the case, being S.C.No.391 of 2016 which is arising out of C.R.No.508 of 2015 registered with the Worli Police Station, Mumbai;

(ii) As far as the Petitioner Nos.1 & 3 are concerned, the Petition is disposed of as withdrawn as against them;

(iii) It appears that this Court has already expedited the trial of the Petitioner No.1 vide order dated 13.04.2016 passed in B.A.No.461 of 2016;

(iv) The learned Judge shall make an endeavour to dispose of the case as expeditiously as possible and in any event by **31.01.2017.**

8. The Petition is accordingly disposed of.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)