

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO. 691/ 2015

WITH

CRIMINAL APPLICATION (APPP) NO. 56 /2016

(Roshan Panjabrao Apale vs. State of Maharashtra VS. Mrs. Sushila Chandrashekar
Junghare)

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Mr. P.W. Mirza/ J A Malnas, Advocates for applicant
Mr. N.B. Jawade, APP for respondent
Mr. A.J. Gilda, Adv. for intervenor

CORAM: A.B.CHAUDHARI, J.

DATED : 14th January, 2016.

CRI.APPP: 56/2016

Criminal Application (APPP) No. 56/2016 for assisting the prosecution filed on behalf of the complainant, by Mr. Anup Gilda, learned Advocate, is allowed.

Heard learned counsel for the respective parties.

It is the prosecution case that the mother of the applicant, who was a widow, had illicit relations with the deceased and, at the behest of the family members of the deceased, at one point of time, the relationship broke.

It is the case of the prosecution that the applicant and his mother, on the date of the incident, committed criminal house trespass and assaulted

deceased-Arvind @ Chandrashekhar Junghare, by fist blows so also by an iron rod. It is alleged that the applicant assaulted the deceased on head, by iron rod. The applicant along with his mother was arrested for the offence punishable under Sections 452, 324 r/ws. 34 of the IPC and was released on bail. The injured was admitted in the hospital and was discharged with the medical advice to continue to have treatment. It appears that thereafter the complications took place and ultimately after a period of two months, Chandrashekhar expired, as a result of which, an offence punishable under section 302 of the IPC was added and that is why again an occasion has arisen for his arrest.

Perused the police papers. In my opinion, looking to the medical papers, *prima facie*, no offence of murder can be said to have been committed, but the offence clearly seems to have been of the lower magnitude. In fact, initially the offence was registered under sections 452, 324 r/ws.34 IPC, for which the applicant was arrested and thereafter remanded to MCR. Looking to the background of the incident and the facts as stated above, I do not think that the applicant should be allowed to be again arrested as no fruitful purpose can be served inasmuch as there is a formal conversion of the offence punishable u/s 302 IPC due to the death of Chandrashekhar.

In that view of the matter, I make the following order:

ORDER

- a) Criminal Application (ABA) No.691/2015 is allowed.
- b) Rule is made absolute in terms of the interim order dated 22.12.2015 made by this Court.
- c) The applicant is directed to attend the concerned Police Station, firstly on 18.1.2016 and thereafter as and when called by the Investigating Officer, for the purpose of investigation.
- d) After completion of investigation/interrogation, the applicant shall not enter boundaries of village Kakda Tah. Achalpur, Dist. Amravati, till the charge-sheet is filed.
- e) The applicant shall not enter the boundaries of village Kakada, Tah. Achalpur, Dist. Amravati till the charge-sheet is filed.
- f) The order as regards prohibition of applicant not to enter village boundaries of village Kakda, be informed by the concerned Police Station to the family of the complainant.

JUDGE*sahare*