

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 229 OF 2017

1. Arun Sopanrao Gaikwad
age 45 years, occ. service
Deputy Executive Engineer
Maharashtra State Electricity
Distribution Company Ltd.
r/o Sub Division MSEDCL
Phulambri, TQ. Phulambri
Dist. Aurangabad.

2. Ashwini Raosaheb Dake
age 26 years, occ. service
Junior Engineer
Maharashtra State Electricity
Distribution Company Ltd.
r/o Sub Division MSEDCL
Phulambri, Tq. Phulambri
Dist. Aurangabad.

Petitioners

Versus

1. The State of Maharashtra
Through the Officer Incharge/
Investigating Officer
Phulambri Police Station
Tq. Phulambri, Dist. Aurangabad.

2. Babasaheb Anand Misal
age 38 years, occ. Driver
r/o Kingaon, Tq. Phulambri
Dist. Aurangabad.

Respondents

Mr. S.V. Mundhe, advocate for the petitioners.

Mr. V.M. Kagne, A.P.P. for Respondent no.1.

Mr. S.B. Sant and Mr. D.S. Kulkarni, advocate for respondent no.
2.

CORAM : R.M.BORDE &

A. M. DHAVAL, JJ.

DATE : 27th JUNE, 2017

ORAL JUDGMENT: (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally with the consent of learned counsel for the respective parties.
3. This is a petition seeking quashment of the criminal proceeding initiated against petitioners in pursuance of lodging of First Information Report bearing no. I-153/2016 at Fulambri police station on 10.11.2016 for offence punishable under section 304-A of the Indian Penal Code.
4. It is alleged in the First Information Report that deceased was performing some work by climbing on the electric pole at the relevant time and, as a result of re-connection of electricity supply, he sustained injuries and fell down from the electric pole. As a result of which, he sustained some grave injuries and was required to be hospitalised, where he died while undergoing treatment. Deceased was admittedly assisting one lineman Mr. Kapse at the given date and time. If at all, any liability is to be fasten, it shall be against those persons who were performing duty at the relevant time. It is informed that departmental action has been taken against Mr. Kapse and he has been put under suspension. Mr. Kapse is one of the accused in the crime and is being prosecuted.
5. So far as petitioners are concerned, Petitioner no. 1 is

Deputy Executive Engineer whereas petitioner no. 2 is Junior Engineer working with Maharashtra State Electricity Distribution Company Ltd. Petitioners perform supervisory functions and are not concerned with the field duty. It is nowhere alleged in the First Information Report that petitioners are in any way instrumental in the act alleged in the complaint. They do not have any remote connection with the alleged crime. Continuation of criminal proceeding against petitioners would be sheer abuse of the process and as such, it would be impermissible to proceed against petitioners.

6. For the reasons recorded above, criminal writ petition is allowed. Criminal proceeding initiated against petitioners 1 and 2 in pursuance of registration of First Information Report bearing no. I-153/2016 on 10.11.2016 at Fulambri police station stands quashed. Rule made absolute to the extent specified above.

(A.M. DHAVALA)
JUDGE

(R.M.BORDE)
JUDGE

dyb