

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 186 OF 2004

Sanojkumar Shrinandkishor Roy
Age: 21 years, Occu.: Pan-stall owner
R/o Laxminagar, Shirdi,
Tq. Rahata, Dist. Ahmednagar.

..APPLICANT

VERSUS

1. State of Maharashtra
2. Vitthal Ramrao Bodkhe
Age: 23 years, Occu. Labourer
3. Vivek Prabhakar Shripad
Age: 24 years, Occu.: Business

Both R/o Ganeshwadi,
Tq. Rahata, Dist. Ahmednagar.

..RESPONDENTS

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Mr. Satej Jadhav, Advocate for applicant.
Ms. S.S. Raut, A.P.P. for Respondent No.1 – State.
Mr. S.P. Chapalgaonkar, Advocate for Respondent Nos. 2 and 3.

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**CORAM : T.V. NALAWADE, J.
DATED : 09th JANUARY, 2017**

ORAL JUDGMENT :

1. Mr. Satej Jadhav, learned Counsel is hereby appointed for petitioner and he is heard. Mr. Chapalgaonkar, learned Counsel argued for original complainants. Learned A.P.P. is also heard.

2. The revision is filed to challenge the judgment and order of Criminal Revision No. 31 of 2001 which was pending in the Court of Additional Sessions Judge, Kopergaon and also the order made by the Judicial Magistrate First Class, Kopergaon on Exhibit 1 in R.C.C. No. 306 of 2001 (S.C. No. 30 of 2002).

3. It can be said that present proceeding is misconceived. After completion of investigation, police had filed charge-sheet / report under Section 173(2) of the Code of Criminal Procedure for the offence punishable Sections 302, 307, 201 read with 34 of the Indian Penal Code. Along with the report, two different reports were filed by police one under Section 169 of the Code of Criminal Procedure in respect of present petitioner and one under Section 170 of the Code of Criminal Procedure against the remaining accused – Respondent Nos. 2 and 3. It appears that Judicial Magistrate First Class had accepted the report filed in favour of petitioner under Section 169 of the Code of Criminal Procedure without hearing the original complainant. Due to this, the complainant was aggrieved and he had filed aforesaid revision. The Sessions Court has allowed the revision and has set aside the order made by the Judicial Magistrate First Class. After the decision of revision, it was open to the

Judicial Magistrate First Class either to direct further investigation or to make further order in view of the material available.

4. It appears that the Judicial Magistrate First Class then took cognisance of the offence against the present petitioner under Section 190(1)(c) of the Code of Criminal Procedure. These two decisions are challenged in the present proceeding by the accused – Sanojkumar against whom cognisance is taken under Section 190 of the Code of Criminal Procedure. It can be said that after taking cognisance of the offence under this Section, only two alternatives were there before present petitioner – accused, either to file application under Section 482 of the Code of Criminal Procedure for quashing proceeding or to file application for discharge. The petitioner is challenging two orders which were made by Sessions Court and the Judicial Magistrate First Class. In the result, petition stands dismissed.

5. The fees of the learned Counsel for petitioner is quantified as Rs.3,000/- which is to be paid by the office of Legal Aid.

(T.V. NALAWADE, J.)

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