

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.177 OF 2017

Arati Vasant Gengaje & Anr.Applicants
V/s.
State of Maharashtra & Anr.Respondents

Mr. Aniket Nikam with Mr. Piyush Toshnival i/by Mr. Ashish Satpute , Advocates for Applicants.
Mr. A.D.Kamkhedkar, APP for Respondent-State.

CORAM : SANDEEP K. SHINDE, J.

DATE : June 22, 2017.

P.C. :

Applicants are accused in Crime No.74 of 2015 punishable under Sections 307, 324, 143, 147, 148, 149, 323 and 504 of IPC. They sought discharge vide application filed under 227 of the Cr.P.C. Applicants are accused nos.4 and 5 in the said C.R. Since one of the offences is triable by the Court of Sessions, case was committed to the Court of Sessions and now bearing Sessions Case No.46 of 2016. The learned trial Judge rejected the application vide order dated 7.3.2017 against which this application under Section 397 of Cr.P.C. is preferred.

2 Complainant Suryakant Tarde, reported to the police that on 30.8.2015 when he was returning back with his wife, one Vaman, Vasant, Keshav, Mrs. Arati wife of Vasant and Shantabai Shankar Chapte abused the complainant. Accused Vasant caught hold hands of complainant. Vaman assaulted on head of complainant by handle of sword stick. When his wife intervened the fight, Shantabai Chapte, applicant no.2 herein and Arati Vasant Gengaje, applicant no.1 herein abused his wife. It is alleged that applicants and other co-accused assaulted wife of the complainant. On this set of allegations, offence as aforesaid came to be registered.

3 The learned counsel for the applicants brought to my notice injury certificates of complainant-Suryakant Tarde certifying all 3 injuries were simple in nature on parietal region and were caused by hard and blunt object. Another injury certificate of complainant's wife shows one simple injury caused by hard and blunt object.

Upon relying these two medical certificates, he would submit that applicants cannot be tried for offence under Section 307 IPC in-as-much as firstly, injury sustained by

the husband was simple in nature. Secondly, present applicants did not inflict injuries on the head of the complainant- Suryakant Tarde.

4 Heard learned counsel for the applicants and the learned APP for the State. Perused the charge-sheet and the order. It appears that applicants had filed application for discharge seeking discharge from all the offences and charges. No doubt, these applicants did not inflict injuries with any weapon on the vital part of the body of the complainant or his wife. However, since they have been charged of committing offence under Section 143, it may not be possible to accept the contention of the applicants, that in view of the medical certificates and statements of some of the witnesses they deserve to be discharged.

Applicants and the co-accused are facing the trial under Sections 307, 324, 143 and 149 of IPC and, therefore, as to whether they were sharing common object or not at the time of offence cannot be ascertained at this stage and it can only be gathered and ascertained after leading the evidence. That considering the aforesaid facts

and circumstances, I am not inclined to entertain the application. The application is, accordingly, rejected.

(SANDEEP K. SHINDE, J)