

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.116 OF 2016

Leena w/o Balvirsingh Arora, Nari Road, Nagpur

Vs.

State of Maharashtra, Thr. Crime Branch, Nagpur and ors.

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

Court's or Judge's Order

Shri G. T. Ramteke, Advocate for applicant.
Shri H. D. Dubey, APP for non-applicant No.1.
Shri M. P. Kariya, Advocate for non-applicant
Nos.2 to 5.

CORAM: P. N. DESHMUKH, J.

DATED: April 06, 2017.

Heard the learned counsel for applicant, learned Addl. Public
Prosecutor for non-applicant No.1 and learned counsel for non-
applicant Nos.2 to 5-original accused.

This application takes exception to order passed by learned
Ad-hoc Asst. Sessions Judge, Nagpur in Sessions Trial No.223/2013
by which application below Exhibit-50 filed by applicant-original
complainant to frame an alternate charge for the offence
punishable under Section 302 read with Section 34 of the Indian
Penal Code is rejected.

Learned counsel for the applicant contended that the trial

Court did not consider the fact that from the documents filed in the charge-sheet, case for the offence punishable under Section 302 of the Indian Penal Code is made out and without considering these aspects, framed charge against respondent Nos.2 to 5 for the offence punishable under Section 306 read with 34 of the Indian Penal Code and has therefore contended that application be allowed and order below Exhibit-50 be quashed and set aside.

Learned Addl. Public Prosecutor and learned counsel for non-applicant Nos.2 to 5 have contended that no such application for framing alternate charge under Section 302 read with Section 34 of IPC is filed by the prosecution before the trial Court. It is submitted that applicant being original complainant has no locu to file such application.

Learned counsel for the applicant could not point out any provisions enabling the applicant to move such application before the trial Court in absence of any application by the prosecution.

In fact it is noted that during the course of investigation, in a writ petition preferred, investigation was transferred under the orders of this Court to the Crime Branch, Nagpur. The investigation was thereafter complete and charge-sheet came to be filed against the respondent Nos.2 to 5 for the offence punishable

under Section 306 read with Section 34 of IPC as during the course of investigation it is noted that said Sweety committed suicide. In that view of the matter, there is no substance in the present application seeking quashing of impugned order below Exhibit-50 passed by the trial Court. Infact it is noted that at the time of passing of this order trial has already commenced on 04/10/2014 and due to grant of stay by this Court by its order dated 20/03/2016 further proceedings are stayed.

Since there is no substance in the application, same stands disposed of as dismissed.

JUDGE

Asmita