

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

CRIMINAL APPLICATION NO. 931 OF 2018

Malhari s/o Khandu Bargaje,
Age 53 years, Occu: Service,
R/o Takli, Tq. Kaij, Dist. Beed

... **Applicant**
(Orig. Accused)

VERSUSA

1. The State of Maharashtra
Through Kaij Police Station, Dist. Beed.

Mr. Anil M. Gaikwad , Advocate for the applicant.
Mr. M M. Nerlikar , APP for the respondent State.

**CORAM : T. V. NALAWADE AND
K. L. WADANE, JJ.**

DATE: : 2nd July , 2018

JUDGMENT (Per K. L. Wadane, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the application is taken up for final hearing.
2. The application is filed under section 482 of the Code of Criminal Procedure for challenging the first information report lodged against the applicant, bearing Crime 472/2017 with Kaij Police Station, Dist. Beed for the offence punishable under Section 304 (2) of the Indian Penal Code and prayed for quashing the same.

3. The complainant, father of the deceased- Bhima Sakharam Ghule lodged a report with Kaij Police Station alleging that the complainant and his son were working in their agricultural field and and due to negligent act of illegally laying down electricity wire, the complainant and his son have received electric shock and his son died due to electrocution. On the basis of the first information report, offence as referred above came to be registered against the applicant.

4. Heard Mr. Anil M. Gaikwad, learned counsel for the applicant, and Mr. N. M. Nerlikar, learned APP for the respondent State.

5. Learned counsel appearing for the applicant has argued that the applicant has nothing to do with the laying of the electric wire and has invited our attention to the contents of the spot panchanama and the report of the Electricity Inspector, Division Beed dated 06.12.2017. This Inspector visited the spot and observed the situation at the spot. The Electricity Inspector gone through the contents of spot panchanama, postmortem report as well as the statements of the witnesses and came to the conclusion that electricity was supplied to the well of Rukhminbai Khandu, (mother of the applicant) from the distance of 300 feet through 3 phase wire/cable. There was joint to the cable at the

distance of 150 ft i.e. in the field of the present applicant and due to removal of insulation tape, the complainant and his son received electric shock, due to which the deceased died of electrocution. The Electricity Inspector has specifically reported that the office bearer of the Maharashtra State Electricity Distribution Company Ltd. were negligent while giving electric connection to the well of the mother of the applicant and there was clearcut contravention of Rule 12, 35 and 72 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulation, 2010. Rule 12 of the said Regulation prescribes general safety requirements pertaining to construction, installation, protection, operation and maintenance of electric supply lines and apparatus. Rule 35 prescribes about supply and use of the electricity. Rule 72 is regarding manner and mode of earthing. So the concerned Electricity Inspector, on thorough enquiry, has concluded that there was negligence on the part of the employee of the Electricity Company and has recommended payment of compensation to the relatives of the deceased.

6. On perusal of the further record, it appears that the complainant has applied for such compensation by filing affidavit to

that effect. So, looking to the entire record, there is absolutely no evidence on record to show that the present applicant was, in any way, concerned with the supply of electricity connection or laying down of the electricity wire through his land.

7. In view of the above, continuation of the criminal proceeding against him is nothing but an abuse of process of law. Therefore, in our opinion, the first information report registered against the applicant needs to be quashed and set aside. Consequently, the application is allowed in terms of prayer clause (B).

8. Rule is made absolute accordingly.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC