

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

901 CRIMINAL REVISION APPLICATION NO.57 OF 2012

State of Maharashtra
Through Central Bureau of
Investigation, S.T.F., Mumbai

..Applicant/
Complainant

VERSUS

1. Rahul Manohar Pande
Age: 34 years, Occu.: NIL,
R/o. Parimal Nagar, Nanded.
2. Sanjay @ Bhaurao Vithalrao
Chaudhary
Age: 34 years, Occu.: -,
R/o. Gandhi Nagar, Nanded.
3. Ramdas Ananda Mulge
Age: 30 years, Occu.: -,
R/o. Ganesh Nagar, Nanded.
4. Dr.Umesh Dinkarrao Deshpande
Age: 44 years, Occu.: Doctor,
R/o. Ganesh Nagar, Nanded.
5. Maroti Keshav Wagh
Age: 33 years, Occu.: -,
R/o. Bajarang Colony, Nanded.
6. Yogesh Ravindra Deshpande
Age: 32 years, Occu.: -,
R/o. Vaman Nagar, Nanded.
7. Gururaj Jairam Tuptewar
Age: 33 years, Occu.: Agri.,
R/o. Brahman Galli Mudhed,
District - Nanded.
8. Milind Arvind Ektate
Age: 52 years, Occu.: Advocate,
R/o. Vidhyanagar, Nanded.

9. Mangesh Ramesh Pande
Age: 42 years, Occu.: -,
R/o. Ganesh Mandir, Nanded.

10. Rakesh Dattatraya Dhawade
Age: 49 years, Occu.: -,
R/o. Manini Apartment,
Dayari Village, Last Bus Stop,
Pune.

..Respondents
(Ori. Accused)

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ASG for Applicant - State : Shri S.B.Deshpande
APP for Applicant - State : Shri A.S.Shinde
Advocate for Respondent No.4 : Shri M.V.Deshpande &
Shri Kamaljeet Chandilaya
Advocate for Respondent No.5 : Shri B.B.Kulkarni
Advocate for Respondent No.8 : Shri B.N.Gadegaonkar &
Shri M.V. Ghatge
Advocate for Respondent No.10 : Shri D.R.Kale
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CORAM : P.R.BORA, J.

DATE: 11th December, 2018

ORAL JUDGMENT:-

1. Present revision application is heard finally with the consent of the learned ASG for the revision applicant and learned Counsel appearing for the respective respondents.

2. The Central Bureau of Investigation (hereinafter referred to as 'the CBI') has challenged the order passed by the Assistant Sessions Judge, Nanded on 01.02.2012 below application Exh.184 in Sessions Case No.14 of 2007. The aforesaid application was filed by the CBI with a prayer to alter the charge

framed against accused Nos.2, 3, 4 and 7 and to frame the charge against the said accused also for the offences punishable under Sections 3 and 6 of the Explosive Substances Act, under Section 120(B) of the Indian Penal Code and under Sections 18 and 23 of the Unlawful Activities (Prevention) Act.

3. The learned Assistant Sessions Judge after hearing the learned prosecutor and learned Counsel appearing for the parties, rejected the application vide the impugned order. Aggrieved thereby, the CBI has preferred the present revision application.

4. Shri S.B.Deshpande, learned ASG submitted that sufficient evidence was collected and placed on record by the CBI on the basis of which the charge was also liable to be framed against accused Nos.2, 3, 4 and 7 for the offences punishable under Sections 3 and 6 of the Explosive Substances Act, under Section 120(B) of the Indian Penal Code and under Sections 18 and 23 of the Unlawful Activities (Prevention) Act. The learned ASG has submitted that the learned Assistant Sessions Judge failed in properly appreciating the material on record and as such did not frame the charge against the said accused for the aforesaid offences. The learned ASG attempted to bring to my notice the

material as has been existing on record against the aforesaid accused, which according to the CBI is sufficient for framing the charge against the said accused for the aforesaid offences. However, when I went through the record of the case, it is revealed that the present application is filed in the year 2012 and since then the trial of the aforesaid Sessions case is stayed by this Court.

5. After having considered the aforesaid aspect in light of the Judgment of the Hon'ble Apex Court in the case of ***Asian Resurfacing of Road Agency Private Limited and Another Vs. Central Bureau of Investigation [2018 (2) Bom.C.R.(Cri.) 770]*** and more particularly, after having gone through the order, which is impugned in the present revision application, it appears to me that without going into the merits of the case and the objections as are raised in the present application and keeping all said objections on facts and law, open to be agitated by the parties before the Sessions/Special Court, the present revision application can be disposed of.

6. The learned Counsel appearing for the respondents also attempted to make submission in support of the order passed by the learned Assistant Sessions Judge, stating that the learned Assistant Sessions Judge has rightly rejected the application and

decided not to frame the proposed charge against the concerned accused. However, as I mentioned herein above, I am not intending to hear the arguments of the respondents also in detail.

7. It has to be stated that in the impugned order it has been amply made clear by the learned Assistant Sessions Judge that if the prosecution succeeds in bringing any cogent and reliable evidence on record against the accused persons during the course of the trial, then the charge can be altered. It appears that at that stage, the learned Assistant Sessions Judge was not convinced that the material on record was sufficient to frame the charge as was sought to be framed by the CBI against the said accused. It appears to me that as has been observed by the learned Assistant Sessions Judge, if the CBI succeeds in bringing on record any cogent and reliable material on record during the course of trial, it would be open for it to make a request to alter the charge or to frame additional charge for the offences, which may reveal from the said material. Since that option is kept open by the learned Assistant Sessions Judge, it appears to me that instead of deciding the revision application after long lapse of six years and without going into the merits of the case, it would be expedient if the Sessions Court is directed to proceed with the

trial expeditiously. I reiterate that if the CBI succeeds in bringing on record any cogent and sufficient evidence revealing the offences against accused Nos.2, 3, 4 and 7, it may be open for it to make a request to frame charge against the concerned accused for the aforesaid offences and the said request shall be considered by the Sessions Court on its own merits. The Sessions Court, Nanded shall hear and decide Sessions Case No.14 of 2007 as expeditiously as possible.

8. With the aforesaid observations, present revision application stands disposed of.

9. Rule is discharged.

(P.R.BORA)
JUDGE

SPT