

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3052 OF 2007

Umesh s/o. Prakash Raghuwanshi,
Age 25 years, Occu. Education,
R/o. Cottage Hospital, Parola,
District Jalgaon,
Present R/o. Plot No. 10, Behind
Trupti Bhoj, Brook Bond Colony,
Ring Road, Jalgaon.

....Applicant.

Versus

State of Maharashtra
Through Zilla Pet Police Station,
Jalgaon.

....Respondent.

Mr. K.C. Sant, Advocate for applicant.

Mrs. D.S. Jape, APP for respondent/State.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.
DATED : JUNE 18, 2018.**

JUDGMENT : [PER T.V. NALAWADE, J.]

1) The proceeding is filed under section 482 of Criminal Procedure Code (hereinafter referred to as 'Cr.P.C.' for short) for relief of quashing of the criminal case, chargesheet filed, which is given number as SCC 5130/2006 and which is pending before the Chief Judicial Magistrate, Jalgaon. Both the sides are heard.

2) The F.I.R. was given by one Choudhary, Assistant P.S.I. of Zilla Peth Police Station, Jalgaon. The incident took place on

4.6.2002 in the house of present applicant situated in Jalgaon. One Raju Dashrath died due to shock of electricity and there is allegation that present applicant was negligent and he kept wires of electricity in the bathroom and he had not cut off the supply of those wires.

3) Raju had come to Haresh Patil, who was having room on rent basis in the building of present applicant. On 4.6.2002 after 7.00 a.m. when Haresh heard shouting of Raju as he had sustained shock of electricity, he rushed towards the bathroom. He found that service wire of electricity was near Raju. He separated wire and Raju was taken outside. Raju was unconscious. Attempt was made to save his life. But in Civil Hospital, doctor declared that Raju was dead. The incident had taken place at about 7.30 a.m. to 8.30 a.m. and Raju was alone in the bathroom.

4) On inquiry, it revealed that another boy living in other room namely Javed had requested the applicant to see that the overhead water tank was filled by stating electric motor. This request was made on 3.6.2002 at about 12.30 to 1.00 p.m. Applicant was in hurry and so, he only put on the button and said that he would join the connection with motor and it would be the responsibility of Javed to see that when the water was filled in the tank, the supply of electricity motor was cut off by removing wire joint. Accordingly, on

3.6.2002 itself Javed had removed the wire from motor and he had kept the wire hanging at a nail which was outside the window. He was not aware as to whether the supply in the wire was still on and he had thought that supply was possibly cut off.

5) P.M. was conducted on the dead body on 4th itself. In the inquest report, opinion was given that death was caused probably due to shock of electricity. But, the doctor did not give even advance certificate about cause of death. Viscera and part of skin were preserved and they were sent to C.A. Office. The C.A. report was received on 9.12.2002 and after that request was made in the year 2006 by the police station to the doctor to give opinion regarding cause of death. When doctor gave certificate that it was death due to shock of electricity, F.I.R. came to be given on 24.8.2006.

6) The learned counsel for applicant placed reliance on some observations made by the Apex Court in the case reported as **LEX (SC) 2013 11 23 [Sarah Mathew Vs. Institute of Cardio Vascular Diseases by its Director K.M. Cherian]**. The learned counsel for applicant submitted that the case was not filed in the Court of Magistrate within the period of three years even from the date of receipt of C.A. report and so, the provision of section 468 of Cr.P.C. needs to be strictly applied and there is no possibility of

extending time of limitation in the present matter.

7) There is force in the aforesaid submission made for the applicant. Relevant facts already mentioned show that on 9.12.2002 C.A. Office had given opinion that no poison was detected in the viscera. In view of this report, the concerned police station ought to have collected the opinion of the doctor immediately and ought to have filed the case against the present applicant. That was not done and the opinion was collected in the year 2006 i.e. on 18.8.2006 and then chargesheet came to be filed. Thus, the chargesheet was filed after expiry of three years from the date when it became clear that the cause of death was shock of electricity and there was no poison detected in viscera. As the chargesheet was filed after expiry of three years from that date, this Court holds that it is not open to the State to say that the date of collecting final opinion from doctor i.e. 22.8.2006 is relevant date for calculating the period of three years given in section 468 of Cr.P.C. If such proposition is accepted, it will defeat the purpose behind the provision of section 468 of Cr.P.C. Thus, only on this ground proceeding can be quashed.

8) On merits, it can be said that it would be the matter of appreciation of material. However, there is one glaring circumstance in the present matter like the involvement of other person like

Javed, who was expected to see that after filling the water tank, the connection was removed from the motor. His contention is that he had kept the wire hanging at a nail which was outside of the window. The contention of Haresh Patil, who first reached the spot shows that the wire was laying near Raju when he reached the spot. Further, there was much gap between the period when the supply of electricity was put on by the present applicant on 3.6.2002 (at about 12.30 p.m.) and the time of incident which took place on 4.6.2002 after 7.30 a.m. Due to these circumstances also, this Court holds that nothing can be achieved by allowing proceeding to go on. In the result following order.

O R D E R

Application is allowed. Relief is granted in terms of prayer clause 'A'. Rule is made absolute in those terms.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/