

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.357 OF 2018

IN

CRIMINAL APPEAL NO.950 OF 2013

Ms.Sonam Indrajeet Mishra (Sister
of the Deceased Chandrakala Mishra) ... **Applicant**
V/s.
Rajkumar Ishwarnath Mishra & Ors. ... **Respondents**

.....

Mr.Farokh K. Mistry, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 20th JULY 2018.

P.C. :

1 Following reliefs are claimed in this application :

“(a) The Intervener states that the Intervener Applicant should be added as party to the proceeding so that intervener can point out the facts and circumstances where this murder has been shown as suicide, which will help the Honourable Court to decide the outcome of the case. The present application for intervention be allowed

by the Honourable Court in the interest of Justice. The Intervener be given an opportunity to present case before this Honourable Court.

- (b) That the impugned order of acquitted passed by the learned Adhoc Assistant Session Judge City Civil & Session Court, Greater Mumbai dated 30th Dec, 2011 in Sessions case No 267 of 2011 be quashed and set aside and all the 3 accused should be convicted and sentenced to jail according to the law of the land principle.
- (c) The Intervener prays that an independent CBI inquiry be ordered into the murder of her sister Chandrakala by the Hon. High Court and the CBI should submit an impartial report by reopening Chandrakala murder case and then the accused are tried u/s 302 murder of Chandrakala and if proved guilty they should be sentenced back to jail and should not be able to jump any bail.
The CBI should submit a confidential report after conducting due inquiry so that this murder is not treated as a case of Suicide.
- (d) Record and Proceedings of above mentioned Sessions Case No.267 of 2011 from the file of Learned Adhoc Assistant Sessions Judge, City Civil & Sessions Court, Gr. Mumbai be called for :

- (e) That the impugned Order of acquittal passed by the Learned Adhoc Assistant Sessions Judge, City Civil & Sessions Court, Gr. Mumbai dated 30.12.2011 in Sessions Case No.267 of 2011 be quashed and set aside and the Respondents/Orig. Accused be convicted and sentenced according to law ;
- (f) After going through the Record and Proceedings and evidence on record, this Honourable Court may be pleased to convict the Respondents/Orig. Accused for the offence punishable under 306, 304(B), 498-A and 506 of the Indian Penal Code.
- (g) Action under Section 390 of Criminal Procedure Code may be taken.
- (h) Any other order or orders in the interest of justice may please be passed in favour of Intervener.”

2 This application is filed in an appeal filed by the State whereby acquittal of the respondents of the offences punishable under Sections 306, 304(B), 498-A and 506 of the Indian Penal Code is challenged. The appeal is already admitted for final hearing.

3 Heard the learned Counsel appearing for the applicant, who is sister of deceased Chandrakana Mishra. He pointed out Section 77 of the Indian Penal Code in support of his contention and submitted that nothing is an offence which is done by a Judge while acting judicially in exercise of powers which in good faith he believes to be given to him by law.

4 After due trial, respondent/accused acquitted of the alleged offences and the State has challenged that Judgment and Order of acquittal. The applicant being sister of deceased Chandrakala Mishra at the most can assist the prosecutor in that appeal. However, other reliefs claimed in the instant application cannot be granted by this Court. Therefore, the Order :

ORDER

- (i) The application is disposed of with the Order that the applicant is permitted to assist the prosecutor in the appeal challenging acquittal of the respondent/accused.

Raju
Dattatraya
Gaikwad

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Raju Dattatraya
Gaikwad
Date: 2018.07.20
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(A.M.BADAR J.)