

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 473 OF 2018

Sanjay Mohan Dubey

...Applicant

V/s.

The State of Maharashtra

... Respondent

Mr.Sanjeev Kadam I/b. Mr.Akhilesh Singh for the Applicant.

Mrs.Rutuja Ambekar, APP for the Respondent/State.

CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 08 OCTOBER 2018

P.C.:

1. This Criminal Revision Application is directed against the order dated 7th June, 2018 passed by the learned Additional Sessions Judge, Palghar thereby rejecting the application for discharge filed by the applicant under Section 227 of the Code of Criminal Procedure.

2. The applicant is prosecuted for the offences punishable under Sections 307, 324, 143, 147, 148, 149 and 506 of the Indian Penal Code in C.R.No. 93 of 2013, which was registered on 3rd October, 2013 with Palghar Police Station.

3. It is submitted by the learned counsel for the applicant that the complainant has falsely implicated the present applicant. It is further submitted that as per the case of prosecution, the complainant was caught-hold by three

unknown persons and the applicant stabbed him on his stomach with sharp weapon. It is further submitted that the complainant has lodged the complaint and has falsely implicated the applicant. In supplementary statements dated 17th April, 2014 and 28th April, 2014 recorded by the police, the complainant has stated that in the complaint he had not mentioned the names of Pramod Chandrashekhar Dubey and Vidyabhushan Shobhnath Manik. However, he has given statement that Pramod Dubey and Vidya Manik are the persons, who had assaulted him. Both the co-accused were discharged and the chargesheet came to be filed only against the present applicant. It is further submitted that the complainant had filed an affidavit in the month of May 2014 wherein he has specifically stated that he and accused belong to same community and after intervention of senior members, they have decided to put an end to the dispute between them. It is further submitted that in supplementary statements, the complainant has withdrawn his allegations made against the co-accused and, therefore, due weightage has to be given while considering discharge application of the present applicant. There is no evidence against the applicant. It is pointed out that in the medical certificate dated 3rd October 2013, the applicant has given the history of assault by unknown persons. Thus, there is no evidence against the applicant and he is to be discharged. The order dated 7th June, 2018 passed by the trial Court is to be set aside.

4. The learned APP for the respondent-State while opposing this application, has supported the order passed by the learned Judge of the trial Court and relied upon F.I.R. of the complainant and also relied upon the supplementary statement dated 28th April, 2014 of the complainant. She submitted that in supplementary statements, the complainant reiterated the role played by the applicant.

5. Heard learned counsel for both the parties. On perusal of the relevant documents and the impugned order of the trial Court, it is transpired that the role attributed to the present applicant by the complainant is very specific. It is stated that the applicant stabbed the complainant in his abdomen. The name of the applicant is appearing in F.I.R. The complainant has not given any supplementary statement before the police before filing of the chargesheet informing that he has mistakenly or wrongly implicated the present applicant. This is not the case of discharge under Section 227 of the Code of Criminal Procedure. No interference is required in the order dated 7th June, 2018 passed by learned Additional Sessions Judge, Palghar. Hence, Criminal Revision Application is dismissed.

(MRIDULA BHATKAR, J.)