

27.8.2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION FOR LEAVE TO APPEAL (STATE) NO. 84 OF 2019

Central Bureau of Investigation ...Applicant

V/s.

Ms. Jigna Jitendra VoraRespondent

Mr. Pradip D. Gharat, Advocate for the applicant.

Mr. M.K. Kocharekar, Advocate for respondent no.1.

CORAM : B.P. DHARMADHIKARI, &

SANDEEP K. SHINDE, JJ.

Tuesday, 27th August, 2019.

P.C. :

1. CBI seeks leave to assail acquittal of original accused no.11.

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2. Submission is, accused no.11 had passed on registration number of motorcycle of deceased to accused no.12. It is further pointed out that, accused no.11 used to complain about conduct of deceased to accused no.12 and those complaints are brought on record in a telephonic talk between accused no.12 and P.W.90. It is also submitted that, immediately after the murder of victim, accused no.11, all of a sudden, proceeded on leave without any valid reason. Contention is, this conduct shows her involvement in the crime.

3. The learned Counsel appearing for accused no.11, submits that, communication of registration number of motorcycle of victim to accused no.12 by accused no.11 is not itself established on record. Similarly, there is no direct evidence of accused

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no.11 complaining to accused no.12 about conduct of victim of crime. CDR of alleged talk between accused nos.11 and 12 is not produced on record. The conversation alleged to be between P.W.100 and accused no.12 has been found not acceptable and therefore not used by trial Court against accused no.11.

4. Learned Counsel for the applicant in reply submits that, though telephonic conversation between a journalist and a criminal cannot be, per-se objected to, when vital information like registration number of motorcycle has been supplied, the conspiracy is established. He submits that, after getting that registration number, accused no.12 through five other accused persons chased deceased and this chase lasted for

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few days. This chase is brought on record by CDR.

5. The evidence to show participation in crime by accused no.11 is only in the shape of conversation between accused no.12 and P.W.100. The trial Court has found it not proper to use it against accused no.11. Accused no.11 had proceeded on leave a day prior to the alleged incident and she reported back ten days after the incident. In absence of any other material, proceeding on leave by itself, cannot be seen as an indication of any wrong intention.

6. The fact that, it is accused no.11 who gave registration number of motorcycle to accused no.12 is again being inferred because of telephonic disclosure by accused no.12 to P.W.90.

7. There is therefore no direct evidence to show that accused no.11 had any knowledge of any conspiracy or has played any part in such conspiracy. Though all CDR records in relation to conversations with accused no.12 have been brought on record, no such CDR in relation to alleged talk between accused no.11 and accused no.12 could be produced on record.

8. We therefore do not see any perversity in the judgment delivered by the trial Court.

9. Leave rejected.