

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

CRIMINAL REVISION APPLICATION NO. 234 OF 2016

Bhika Nivruti Chorge & Ors ...Applicants

Vs.

The State of Maharashtra and Anr. ...Respondents

Mr. S.B. Deshmukh for the Applicants.

Smt. Anamika Malhotra APP for the Respondent No.1- State.

Mr. Datta Mane for Respondent No. 2.

CORAM : A.S. GADKARI J.

DATE : 28th August, 2019

P.C. :-

1. By the present Revision Application under Section 397 of the Code of Criminal Procedure, 1973, the applicants who are the Original accused Nos. 2 to 4 in C.R. No. 310 of 2012 registered with Loni Kalbhor Police Station, District Pune, have taken exception to the correctness, legality and propriety of the Order dated 14th August 2014, passed below Exh. 4 rejecting their application for their discharge preferred under Section 227 of Cr.P.C. in Sessions Case No. 354 of 2013.

2. Heard Mr. Deshmukh learned Counsel for the applicants, Mr. Mane learned counsel for Respondent No. 2 and Smt. Malhotra, learned APP for the State. Perused the

charge-sheet.

3. The applicants are accused nos. 2 to 4 in C.R. No. 310 of 2012 registered with Loni Kalbhor Police Station, District Pune, for the offence punishable under Sections 307, 326, 325, 324, 323, 504, 506 r/w 34 of Indian Penal Code .

The prosecution case in brief is that, due to earlier enmity, the applicants alongwith Sunil Chorge assaulted Shivaji Chorge in their agricultural field with a sickle on 13th July 2012 at about 12.30 p.m.. In the first information report, the role attributed to the applicants is that of sharing common intention with Sunil Chorge who actually assaulted Shivaji Chorge with a sickle on various parts of his body. In the supplementary statement dated 3rd August 2012 given by first informant, an additional role i.e. assault with sword and other weapons on Shivaji Chorge has been attributed to the applicants.

4. Mr. Deshmukh, learned Counsel for applicants submitted that, in the First Information Report, the informant has not attributed role of assault with dangerous weapons to the applicants and it is only in the supplementary statement of the first informant which is recorded after a gap of about 15

days and the statement of injured Shiva Chorge recorded on 3rd August 2012, the role of assault by dangerous weapons is attributed to the applicants. He submitted that in the supplementary statement dated 3rd August 2012 and in the statement of Shivaji Chorge of even date, material improvements have been made by said witnesses. He therefore prays that the impugned order may be quashed and set aside.

5. Perusal of First Information Report shows that applicants were accompanying accused No. 1 Sunil Chorge on the date and time of the incident. When Sunil was assaulting Shivaji Chorge with a sickle, the applicants abused witnesses who were present there, threatened them and thereafter left the scene of offence. Thus there is a strong prima facie case against applicants for sharing common intention with Sunil Chorge in commission of the offence.

6. By now it is well settled position of law that at the time of considering application under Sec. 227 of Cr.P.C., detailed scrutiny of evidence need not be taken into consideration by the Court and if the Court comes to the conclusion that, there is prima facie case made out against

the accused charge under Sec. 228 can be framed. As stated earlier, strong prima facie case against applicants about their involvement in the present case is made out by the Prosecution. Perusal of the impugned order would indicate that the trial Court has not committed any illegality or impropriety while passing the same.

7. Application is accordingly rejected.

(A.S.GADKARI, J.)