

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.150/2012

Kisan S/o Namaji Bhoyar

..Vs..

State of Maharashtra, through Police Station Officer, Police Station, Warora,
Distt. Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V. Sirpurkar, Advocate for the applicant.
Shri Sanjeev. P. Deshpande, A.P.P. for the non-applicant / State.

CORAM : Z.A.HAQ AND
PUSHPA V. GANEDIWALA, JJ.

DATED : 15.10.2019.

1] Heard.

2] By this application under Section 482 of the Code of Criminal Procedure, the applicant - accused No.7 has prayed that the sessions trial against him for the offence punishable under Sections 498-A, 304-B, 302, 506 and 34 of the Indian Penal Code be quashed.

3] The charge-sheet for the above referred offence is filed against seven accused (including the applicant) after the investigation was undertaken pursuant to the report lodged by Ishwar Gangaram Zade (father of victim). According to the prosecution, Swati (daughter of informant) died unnatural death within 4 year and one month of her marriage with accused

No.1 - Laxman. The applicant is husband of sister of Laxman.

4] After the hearing started, learned A.P.P. has invited our attention to major defect in the application pointing out that the informant is not impleaded as non-applicant. Learned A.P.P. has relied on the judgment given by the Hon'ble Supreme Court in the case of *J.K. International V/s. State (Govt. of NCT of Delhi) and others*, reported in **(2001) 3 SCC 462** and argued that as the informant is not impleaded as party, the prayer made in this application for quashing the sessions trial against the applicant cannot be granted.

5] After the learned A.P.P. pointed out the defect, learned Advocate for the applicant sought permission to implead informant as party. In normal course such request is granted by this Court, however, in the facts of the present case, we are not inclined to consider the request made during the midst of the hearing. This criminal application is pending since February, 2012. By order dated 19th June, 2012 while issuing notice of the criminal application, this Court granted an interim order and stayed the proceedings of sessions trial only against the applicant and that too for period of four weeks. The orders passed by this Court subsequently do not show that the interim order came to be continued. On query, neither learned Advocate for the applicant nor the learned A.P.P. could point out the

progress of trial. Learned A.P.P. has further pointed out the judgment given by the Hon'ble Supreme Court in the case of *Asian Resurfacing of Road Agency Pvt. Ltd. and others Vs. Central Bureau of Investigation* reported in **AIR 2018 (SC) 2039** by which the Hon'ble Supreme Court has directed that if the interim order is not continued beyond period of six months, it shall be deemed to have vacated.

6] As far as the request made by learned Advocate for grant of leave to implead the informant as the party is concerned, in the facts of the case, and as such request was not made when we started hearing of the matter and request came to be made only when matter was heard for some time and learned A.P.P. pointed out the defect, we are not inclined to grant the request.

7] In view of the major defect i.e. non-impleadment of the informant as party and as we find that the matter is protracted unnecessarily which has given undue advantage to the other accused, we are not inclined to exercise jurisdiction under Section 482 of the Code of Criminal Procedure. Hence, the criminal application is **dismissed**.

JUDGE

JUDGE