

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

67 CRIMINAL APPLICATION NO.1547 OF 2021

IRFAN KHAN CHOTE KHAN PATHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. V. B. Dhage
APP for Respondent no.1 -State: Mr. M. M. Neralikar
...

**CORAM: SUNIL P. DESHMUKH &
N. B. SURYAWANSHI, JJ.**

DATED: 6th SEPTEMBER, 2021.

P.C. :

The applicants are accused nos.1 to 5 in Crime No. 172 of 2021, registered with Shivaji Nagar Police Station, Nanded, in respect of a death occurred of electrocution on 01/12/2017. The content of the FIR discloses that the deceased Shaikh Daud Shaikh Wahab had climbed up an electric pole for removal of defect and while he was on pole, A.B. have been switched on and he died of electric shock and for the same, the applicants are responsible. Initially an accidental death came to be registered against an unknown person. Subsequently, Maharashtra State Electricity Board made a report on 20/04/2018 that there was no coordination among the employees nor there is explanation as to how the deceased,

who was not employee, could climb up the pole. With reference to the report, the FIR is purportedly lodged on 30th April, 2021 alleging the applicants in the present matter had committed breaches and due to their negligence Shaikh Daud Shaikh Wahab died while he was trying to remove the fault. Thus, an offence came to be registered under section 304-A read with 34 of IPC.

2. Section 304-A of IPC relates to causing death by negligence by doing any rash or negligent act not amounting to culpable homicide punishable with imprisonment of either description for a term which may extend to two years or fine.

FIR would not reflect that the deceased had been let to climb up pole and remove defect by the applicants nor they are stated to be wary of any such work being done by the deceased. Apart from aforesaid, while the offence alleged is of Section 304-A of IPC punishable with 2 years imprisonment, pursuant to Sections 468 and 469 Cr.P.C., court is debarred from taking cognizance after the period of limitation.

Factual position emerges that the incident had taken place on 01/12/2017, the report had been made on 20/04/2018, thereafter, after lapse of three years the present FIR has been lodged, which is obviously outside the period of limitation.

Going by the contents of FIR, it does not make out a case to sustain allegations against the applicants punishable under section 304-A of IPC. The FIR, thus, is not tenable and therefore quashed and set aside.

3. In view of above, application is allowed in terms of prayer clause (B) and is accordingly disposed of.

(N. B. SURYAWANSHI, J.) (SUNIL P. DESHMUKH, J.)

vsm/