

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 40 OF 2020

Smt. Chandrawati Korgaokar,
major of age,
Daughter of Chandrakant Korgaonkar,
Resident of H. No.2/4A,
Muddawadi, Saligao-Goa.

.... Petitioner

V e r s u s

1. State
(Through Calangute P.S.)
Calangute, Goa.

2. Shri Sagar Korgaonkar,
S/o. Chandrakant Korgaonkar,
Resident of H. No.2/4A,
Muddawadi, Saligao-Goa.

.... Respondents

Mr. A. D. Bhole, Advocate for the Petitioner.

Mr. Pravin Faldessai, Additional Public Prosecutor for the
State-Respondent no.1.

Coram :- SMT. M. S. JAWALKAR,J.

Reserved on : 18th January, 2021

Pronounced on: 25th January, 2021

ORDER

1. Heard Shri Bhole, learned Counsel for the petitioner

and Mr. Pravin Faldessai, learned Additional Public Prosecutor for the State.

2. The petition is filed being aggrieved by the order dated 12.12.2019 in Sessions Case no. 37/2012 by learned Sessions Judge, Panaji. The petitioner and the respondent no.2 were accused of having committed offence under Section 302 read with Section 34 of I.P.C. The respondent no.1 registered an FIR alleging that the petitioner and the respondent no.2 with common intentions assaulted and committed murder of Mrs. Reshma Korgaonkar by constriction of neck by using ligature material i.e. dupatta.

3. The prosecution has examined 11 witnesses as of now and the evidence of Pw.12 i.e. Deputy Collector and S.D.O. Mapusa Goa, is in process. During the examination in chief of Pw.12, the respondent no.1 (i.e. State) filed an application (exhibit D-73) seeking to produce a purported complaint dated 24.11.2010 allegedly lodged by Shri Kanta Amerkar, father of the deceased Reshma Korgaonkar.

4. Petitioner filed her reply opposing the said application

as it was not included in chargesheet.

5. The learned Judge was pleased to allow the application and, consequently, permit the State to produce the compliant dated 24.11.2010.

6. The main ground to challenge the said order is that Pw.12 were neither the author of the complaint nor in any manner conversant with the said document. The document otherwise which is inadmissible ought not have been allowed to be produced in the manner permitted by the impugned order and will cause severe prejudice to the petitioner. The said complaint was neither addressed to the Superintendent of Police nor Pw.12 was conversant with the signature of the person who had allegedly filed the complaint. There is no inward stamp number of the Superintendent of Police, North Goa. The said document was not filed along with the chargesheet and there is no reasonable or justifiable explanation for not including the same into the chargesheet.

7. As against this, learned Additional Public Prosecutor, submitted that order passed by the learned Sessions Judge is

perfectly justified. The said document had inadvertently remained to be included in the chargesheet. However, no prejudice is going to be caused to the accused as its reference is already there in the complaint filed by SDM.

8. I have perused the copy of complaint on record. There is reference of the complaint of Shri Kanta Amerkar addressed to Superintendent of Police, North Goa, with copy endorsed to the Officer of SDM. I have also perused the complaint dated 24.11.2010, of which copy is forwarded to Deputy Collector and SDO, Mapusa. True, it is that, Pw.12, may not be conversant to the signature of complainant, (father of the deceased Kanta Amerkar) and it is a fact that father of deceased also expired, however, he is producing the document/complaint copy of which his office received and its reference is already there in the complaint.

9. In my considered opinion, the order of the learned Trial Judge is perfectly justified. The accused is having an opportunity to cross examine this witness.

10. Hence, I see no merits in the petition and is liable to

be dismissed.

11. Accordingly, I pass the following :

ORDER

The Petition is dismissed.

No orders as to costs.

M. S. JAWALKAR,J.

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