

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 289 OF 2020**

Shri. Rajendra Yashwant Pawar
and anr.

.....Applicants

V/s.

The State of Maharashtra

.....Respondent

* * * *

Mr. Sachin Gite, Advocate for the applicants.

Mr. Y.M. Nakhawa, APP for State.

Investigating Officer, PSI, A.Y. Ughade from Indira Nagar Police Station.

Coram : Sandeep K. Shinde, J.

Thursday, 21st October, 2021.

P.C. :

1. Heard. At the outset, Mr. Gite, Learned Counsel for the applicant, does not press the application on behalf of applicant no.2. Thus, application is dismissed against applicant no.2.

2. The learned Additional Sessions Judge vide order dated 16th December, 2019 Nashik declined to discharge the applicant no.1, from Sessions Case No. 24/2018. Feeling aggrieved and dissatisfied with this order, he has preferred this application under Section 482 of the Criminal Procedure Code.

3. Prosecution case in brief is that, Vinod Yashwant Pawar, is brother of the applicant. Vinod's wife, Sonali committed suicide in matrimonial home at Nashik in September, 2017. Her mother lodged a report, whereafter Crime No. 252/2017 was registered against Vinod (husband), applicant and his mother. Applicant was granted pre-arrest bail by this Court, on the ground that the allegations against the applicant were vague and general in nature and specific role has not been attributed to him. Be that as it may, after submitting the final report, when applied for discharge, the learned Sessions Judge refused to pass the discharge order. Hence, this Application.

4. Mr. Gite, learned Counsel for the applicant would submit that, there is no sufficient ground for proceeding against the accused and would contend that, he has been roped in on

vague and general allegations. It is submitted that, since July, 2013 to January, 2016 he was working with the Bank of Maharashtra at Kalwan and Surgana. Incidentally, he was residing at Kalwan and Surgana during this period. Mr. Gite, submitted that, in February, 2016 onwards, the applicant was residing at Mumbai. In support of this submission, he has relied on the appointment order issued by NABARD. This fact is not disputed by the prosecution, which could be seen from the communication dated 18th October, 2021 addressed by the concerned Police Station to the learned Prosecutor. Submission is this, that the applicant was not living with deceased, at Nashik since 2013 and has been roped in on casual allegations. Mr. Gite, submitted, even otherwise, except vague allegations and stray statement of witness, Durgesh, there is no sufficient ground for proceeding against the applicant. He therefore seeks discharge of the applicant.

5. Per-contra, Mr. Nakhawa, learned Counsel would rely on the statement of one, Durgesh Vinayak Ahire, which suggests, presence of the applicant on the date of the incident on the spot of incident. Except a statement of Durgesh and general allegations

in First Information Report, no material has been brought to my notice, to imply and suggest, the applicant's complicity in the crime in question.

6. I have perused the chargesheet to take note of total effect of the material collected by the prosecution against the applicant. In the case of **Kans Raj V/s. State of Punjab (2000), (2000) 5 SCC 207**, the Hon'ble Supreme Court has observed that :

“A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if any discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case.”

These observations, have bearing over the facts of this case, at least qua applicant. Be that as it may, except a noting of presence of applicant on the spot of the incident and general and casual allegations in First Information Report, prima-facie, I am satisfied that, there is no sufficient ground to proceed against the applicant.

7. For these reason, pending application, there shall be interim relief in terms of prayer clause (c) qua applicant no.1.

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(Sandeep K. Shinde, J.)