

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1254 OF 2022

Bhima @ Bhimrao Jalandhar Ranjare .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Akhilesh Singh for the applicant.
Mrs.A.A.Takalkar, APP for the State.
PSI Shri Ranjit .D. Nalawade from Achole police station.

CORAM: BHARATI DANGRE, J.
DATED : 18th AUGUST 2022

P.C:-

1 The present applicant is charged under section 304, 323, read with 504 of IPC.

The incident, which resulted in registration of the subject CR with Achole Police Station on 3/01/2022, is reported by the complaint and has taken place on 2/01/2022.

The statement of the complainant recorded on 3/01/2022, refer to a quarrel, which had ensued and as per the complainant, the applicant returned to the spot and started searching for Sachin, who was questioned a while ago. The complainant and the other persons present there tried to pacify the applicant, by asking him to leave the place and the issue would be sorted out

the next day. At the very relevant time Sachin Shinde and his wife walked towards the spot and Satyawar told the applicant, that the quarrel should be ended. When Sachin and his wife came in front of the applicant he started abusing and assaulted him by fist. When his wife intervened, she was also hit below her ear. The complainant also tried to pull the applicant, but ferociously he pushed him aside and started assaulting Sachin by fist on his chest, face and back. When Satyawar tried to intervene, it is alleged that the present applicant mounted blows on his chest, as a result of which he fell down.

2. In support of the said version of the complainant, statements of various witnesses, who were present on the spot and who had witnessed the incident came to be recorded, which include the statement of Rahul Sawant, Vijay Sawant, and the brothers of the deceased. Apart from this witnesses like Naresh Gangawane, Savita Sawant, Mohd. Suleman Shaikh have also supported the version of the prosecution.

3. The postmortem report refer to several injuries in column no. 17 of the injury 1 to 3 are as following:-

“1. Contusion 5x4 over right side chest, 5 cm from axilla at midaxillary line.

2. Contusion 5x4 over right side of chest, 4 cm below nipple.

3. Contusion 5x4 over left side chest 2 cm below nipple.”

As far as column no. 20 (d) is concerned the following injuries are as under:

*“ (d) Right Lung:- 1) Laceration 3x1x1 cm on Ant-side.
2) Laceration 4x1x1 cm on Ant-side.
(e) Left lung:- 1)Laceration 3x1x1 cm on Ant. Surface.”*

The cause of death has been opined as lung puncture .

4. With the material compiled in the charge-sheet, when the applicant is accused of mounting assault on the deceased Satyawar by means of fist blows on his chest and back with the corresponding injuries being recorded in the postmortem report and the cause of death being specifically asserted and attributed to the said injuries, the applicant face charge under section 304. The learned APP would submit that the case will fall in part II of Section 304, which is punishable with a imprisonment which may extent to 10 years or with fine, since the act is done with the knowledge that it is likely to cause death but without an intention to cause death. Discerning the material compiled in the charge-sheet in form and the statement of witnesses, though Satyawar arrived at the spot to intervene between the applicant and Sachin Shinde, prima facie it can be said that the applicant had no intention but he definitely possessed the knowledge and therefore the injuries which are described in the postmortem report correspond to the cause of death as, “lung puncture”, with the specific injury noticed in column 20 (b) and (e). In the wake

of the specific accusations, against the applicant, he would suffer imprisonment for 10 years.

The application is rejected.

(SMT. BHARATI DANGRE, J.)