

Kiran Omprakash Saroj ...Petitioner
Versus
State Of Maharashtra ...Respondent

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Mr. S. R. Agarkar, APP for the Respondent – State.

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PER COURT:

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the spot. Mangesh was lying unconscious in pool of blood. Pieces of tiles were lying at the spot. He was taken to Siddharth hospital and then to KEM hospital. The informant came to know that there was quarrel between Mangesh and Rajesh Saroj. Sister of Rajesh Saroj, complainant assaulted Mangesh by fist blows and told him to leave the place. Mangesh assaulted Kiran Saroj, her father Omprakash Saroj and Sandesh Bahekar by knife. Thereafter, Rajesh Saroj, Kiran Saroj, Omprakash Saroj and 15 to 20 persons assaulted Mangesh by fist/kick blows, stone, tile. Subsequently Mangesh was declared dead.

4. The revision applicant preferred an application for discharge before the Sessions Court which has been rejected by order dated 24th December, 2021. While rejecting the application, the learned Sessions Judge has observed that the report lodged by the wife of the deceased dated 3rd November, 2014 along with the statements of witnesses and the medical report etc. clearly shows that the applicant along with other accused assaulted the deceased Mangesh More by knife, cement block etc. whereas, he has sustained grievous injury on the vital parts of the body. He was admitted in the hospital for treatment and subsequently succumbed to the injuries. There are seven accused charged in the present crime, who were closely relatives of each other and taking active

part in committing the crime. The offence is of serious nature. The prosecution must be given an opportunity to lead evidence against the accused.

5. Learned Advocate for the applicant submitted that, no case is made out for framing charge against the applicant. The applicant was assaulted by Mangesh. The applicant had suffered injuries. The deceased was assaulted by other persons, who had gathered at the spot. The FIR has been registered at the instance of the applicant vide C.R. No.254 of 2014 for offences punishable under Sections 307, 326, 324 of IPC against Mangesh More. However, he succumbed to injuries suffered by him. The applicant is the injured person. The Sessions Court has committed error in rejecting application for discharge. Learned Advocate relied upon the decision of the Hon'ble Supreme Court in the case of Tanaji Govind Misal V/s. State of Maharashtra delivered in Criminal Appeal No.499 of 1982.

6. Learned APP submitted that, at this stage the statement of the first informant and other material on record is required to be taken into consideration. The applicant has been named in the FIR. She is involved in the assault. Mangesh More had suffered grievous injury which has resulted in his death. The submissions of the counsel for the applicant cannot be considered at this stage.

The deceased had suffered grievous injuries.

7. The learned Sessions Judge while rejecting the application for discharge had assigned cogent reasons. It is rightly observed that the material on record in the form of statements of witnesses, FIR, injuries, are sufficient at this stage to proceed against the applicant. It is pertinent to note that the statement of Suvarna More was recorded and the FIR was registered at her instance. The applicant has been named in the FIR. It is also alleged that she has participated in the assault. Mangesh More had suffered injuries. Subsequently, he died. The applicant is prosecuted for offence punishable under Section 302 of IPC. Merely on the ground that the applicant had suffered injury and that she had lodged FIR against Mangesh More. She cannot absolved from the charges. It is premature stage to give findings that there is no involvement of the applicant in the crime. Hence, no case is made out for allowing this revision application.

ORDER

Criminal Revision Application No.182 of 2022 is
rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)