

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

**927 CRIMINAL WRIT PETITION NO.29 OF 2023**

VITTHAL KHANDU LANDGE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...  
Advocate for Petitioner : Mr. Sudheer R. Zambare  
APP for Respondent – State : Mrs. G.L. Deshpande  
Advocate for Respondents No.2 and 3 : Mr. K.N. Shermale

...  
**CORAM : R. M. JOSHI, J.**  
**DATE : SEPTEMBER 01, 2023**

**PER COURT :**

1. This petition takes exception to the order dated 10.11.2022 passed by the learned Sessions Judge, Ahmednagar in Sessions Case No.135 of 2021 whereby accused no. 2 - Jayashree Landage and accused no.3 - Chandrakala Landage were discharged under Section 227 of the Code of Criminal Procedure (for short 'Cr.P.C.') for the offences punishable under Sections 323, 302, 504, 506 r/w. Section 34, 201 and 120B of the Indian Penal Code (hereinafter referred to as the 'I.P.C.').

2. The petitioner is the son of Khandu. On 29.10.2020 he lodged the report with Ahmednagar Taluka Police Station alleging that his father was harassed by the accused persons over the dispute

of the property. There is also reference in the said report about suit being filed in connection with the said dispute. It is further alleged therein that the accused persons used to cause harassment to the deceased and that being fed up with the said harassment deceased committed suicide. Offence came to be registered vide Cr. No.1091 of 2020 initially for the offence punishable under Section 306 and other offences under the Indian Penal Code. During the course of investigation, it was revealed that the deceased did not die due to drowning. Hence, offence under Section 302 of the I.P.C. came to be applied.

3. Accused no.2 and 3 / Respondents no.2 and 3 filed application under Section 227 of the Cr.P.C. before Trial Court for seeking discharge. Learned Trial Court allowed the application with observation that there is no evidence on record in order to show their involvement in the crime.

4. Learned counsel for the petitioner drew attention of the Court to the statement recorded of accused - Mahadev under Section 27 of the Evidence Act wherein he claims to have disclosed the places of the incident where the deceased was killed. He also drew attention of the Court to the N.C. report lodged by the deceased on 06.10.2020.

5. Except statement of the co-accused under Section 27 of the Evidence Act and the statements of witnesses that the present applicants were amongst the accused persons who used to cause harassment to the deceased, there is absolutely no evidence on record to connect them with the crime in question. Law on the point of discharge of the accused is settled to say that even if material on record goes uncontroverted, it is not sufficient to convict the accused, then accused would be entitled to seek discharge. From the evidence on record, at the most it can be proved against respondents no.2 and 3 that at some point of time they caused harassment to the deceased, however this evidence would not be enough to prove that they committed murder of deceased. Even statement of co-accused under Section 27 of the Evidence Act, does not record presence of respondents at the time of commission of crime. It is rightly observed by the learned Sessions Judge in the impugned order that even in the said statement there is no reference of any role of respondents no.2 and 3 in a commission of the crime.

6. In view of these facts, there is no error in the impugned order to cause any interference. Hence, petition is dismissed.

**[ R. M. JOSHI ]**  
**JUDGE**