

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

971 CRIMINAL APPLICATION NO.1063 OF 2023

Mukund Bhaskarrao Shobhne

..APPLICANT

-VERSUS-

1. The State of Maharashtra
2. Balu Karbhari Thete

..RESPONDENTS

...

Advocate for Applicant : Mr.Deshpande Jagdish V. & Mr.Dudhate
Shivaji Namdevrao

APP for Respondent/State : Mr. M.M. Nerlikar

Advocate for Respondent No.2 : Mrs.Anita D. Deshmukh

.....

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 15th SEPTEMBER, 2023.**

ORDER (SANJAY A. DESHMUKH, J.) :-

1. This application has been filed for quashment of FIR being Crime No.136 of 2022 registered at Police Station Kannad (Gramin), Tq. Kannad, Dist. Aurangabad for the offence punishable under section 304 r/w 34 of the Indian Penal Code and consequential charge-sheet in Sessions Case No.182 of 2023 pending in the Court of 7th Additional Sessions Judge at Aurangabad.

2. Informant averred in the report that on 08.07.2022, his cousin Ganesh Narayan Thete along with Jagdish Chhaganrao

Murkunde, Bharat Barkad & Arjun Magar went to install D.P. in block no.52 of village Navadi, Tq. Kannad, Dist. Aurangabad. They were proceeding from the agricultural land bearing block no.51 of Maksud to Block No.52. Maksud Mankha Pathan, resident of Hivarkheda Nandgirwadi (co-accused), the owner of block No.51 gave electric current to the fencing of his agricultural land in order to prevent the losses to be caused by the forest animals. All these four persons while they were proceeding sustained electrocution and died on the spot. Therefore, report was lodged against Maksud Pathan and this applicant, who was contractor of Anukul Power Company and carrying these four persons with him.

3. The learned advocate for the applicant argued that the applicant is no way criminally liable for the omission, amounting to criminal negligence. He has been falsely implicated in the crime. He lastly prayed to quash the report and charge-sheet against the applicant.

4. The learned APP for the State pointed out the report submitted by the Investigating Officer in detail, which is marked as Exhibit `X'. He further pointed out the statement of Pravin Marotrao Daroli, the Superintending Engineer of M.S.E.B. in which he has pointed out that the applicant has not taken care. He had not directed

the employees to switch of the electricity at the relevant time and proceeded further with these contract labourers. Therefore, the applicant is criminally liable. He lastly prayed to reject the application.

5. The learned advocate for respondent no.2 also submitted to reject the application.

6. Perused the charge-sheet. Except the statement of Pandurang Marotrao Daroli, who was not present at the time of incident, there is no material to show that the applicant to have made any overt act or he omitted to do something by which the incident had occurred. There is material against co-accused Maksud, who is not before us. In such circumstances, compelling the applicant to face the trial in absence of criminal omission on his part, would be an abuse of process of the Court. The application, therefore, deserves to be allowed. It is allowed in terms of prayer clause "B".

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

sga/