

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1632 OF 2023
IN BA/671/2023

BHUSHAN @ BUNTY ASHOK PATIL
VERSUS
SHUBHAM RAJENDRA DESHMUKH AND OTHERS

...
Advocate for Applicant : Mr. Pramod C. Mayure
Advocate for Respondents No.1 to 3 : Mr. Yogesh G. Bolkar
APP for Respondents No.4 and 5 : Mr. S. B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 26-04-2023

PER COURT :-

1. Heard the learned counsel for the applicant, the learned counsel for respondents No.1 to 3 and the learned A.P.P. for respondents No.4 and 5/State.

2. The applicant is a social worker. He claimed that crime was registered at his behest. He also states that the respondents No.1 to 3/ accused have threatened him after the present incident. He has reiterated history of the incident in the application. He has pleaded that on the say of accused in the present crime, false case has been registered against him. This seems the sole statement claiming a leave to assist the learned Additional Public Prosecutor (APP).

3. The learned counsel for the applicant, instead of arguing on the point seeking permission to assist the APP, has advanced argument for about twenty minutes and lastly it was revealed that he is seeking leave under Section 301 of the Code of Criminal Procedure ("Cr.P.C.") to assist the learned APP. When the Court questioned the learned counsel for the applicant, how he can address the Court, he referred to Section 301 of the Cr.P.C. He picked up the words from that section "any private person" and claimed that the applicant has a right to file such application.

4. To buttress his arguments, he relied on the case of **Thakur Ram v. State of Bihar, A.I.R. 1996 SC 911**, in which it was held that barring a few exceptions, in criminal matters, the party who is treated as aggrieved party is the State which is custodian of the social interests of the community at large and so it is for the State to take all the steps necessary for bringing the person who has acted against the social interests of the community to book. However, in the case of **M/s. J. K. International v. State Govt. of NCT of Delhi and others, AIR 2001 Supreme Court 1142**, the private person seeking leave to assist the Public Prosecutor was a complainant.

5. Learned counsel for the applicant has referred to all papers and argued that he is entitled to file an application under Section 301 of the Cr.P.C.

6. Per contra, the learned counsel for the respondents No.1 to 3/accused has strongly opposed the application. He states that the applicant is a journalist. He would submit that except the person aggrieved as defined in the Cr.P.C., no third person has a right to address the Court and seek leave under Section 301(2) of the Cr.P.C. In this case, the injured who subsequently died had come with a case of road traffic accident and then on the voice recorded by a rickshaw driver who came on the spot of the incident, the crime has been converted to murder. He prayed to refuse the leave.

7. The ratio laid down in the cited case is that 'the private person' should be an aggrieved person. A stranger cannot come to the Court and seek leave to assist the learned APP or address the Court.

8. It seems that the present applicant has a grievance against the respondents No.1 to 3/accused. Hence, he took personal interest in the matter. It appears to be a sheer misconception of law. He is not "the aggrieved person" as defined in the Cr.P.C. In view of the law laid down by the Honourable Apex Court in the case ***M/s. J. K. International*** (*supra*), the applicant is not entitled to seek leave to instruct or assist the learned Public Prosecutor. The applicant has spent a huge valuable time not only of the Court but of other accused who were in queue for their cases.

Hence, his application deserves to be dismissed with costs.

Hence, the order:-

- i) Criminal Application stands dismissed with cost of Rs.10,000/-.
- ii) The applicant shall deposit costs of Rs.10,000/- within two weeks from today, in this Court.
- ii) After depositing the costs, the amount be transferred to the Orphanage/Shelter Home, if any, in Dhule district.

(S. G. MEHARE)
JUDGE

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