

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2366 OF 2021

Yogesh S/o. Padmakar Sanap
Age: 28 years, Occu. Service,
R/o. 132 KV Mahapareshan, Quarter
Near Honda Showroom,
Malegaon Bypass Road,
Dhule, Tq. & Dist. Dhule.

... Applicant

Versus

1. The State of Maharashtra
Through Police Inspector,
Chalisgaon Road Police Station,
Dhule, Taluka and District Dhule.

2. Rohidas S/o. Bhimrao Patil,
Age: 56 years, Occu. Service,
R/o. Chalisgaon Road Police Station,
Dhule, Taluka and District Dhule.

... Respondents

.....

Mr. Amol B. Chalak, Advocate for the Applicant.
Mr. V. S. Badakh, APP for Respondent No.1-State.

.....

**WITH
CRIMINAL APPLICATION NO. 2229 OF 2021**

Shri Randhir S/o Sudhakar Aaglave,
Age: 26 years, Occu. : Service,
R/o: Plot No. 20, Flat No. 10,
Shivratna Apartment, Professor Colony,
Deopur, Dhule, District Dhule.

... Applicant

Versus

1. The State of Maharashtra
Through Police Inspector,
Chalisgaon Road Police Station,
Dhule, Taluka and Dist. Dhule.

2. Shri Rohidas S/o Bhimrao Patil,
Age: 56 years, Occu: Service,
R/o: Chalisgaon Road Police Station,
Dhule, Taluka and Dist. Dhule. ... Respondents

.....

Mr. Nilesh N. Desale, Advocate for the Applicant.

Mr. V. S. Badakh, APP for Respondent No.1-State.

.....

**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

**RESERVED ON : 27 MARCH 2023
PRONOUNCED ON : 11 APRIL 2023**

JUDGMENT [ABHAY S. WAGHWASE, J.] :

. Both the above criminal applications are at the instance of original accused against whom crime has been registered for commission of offence under Sections 304-A, 287 of the Indian Penal Code and under Sections 12, 35, 67, 70 of the Electricity (Supply) Act, 1948 at Chalisgaon Road Police Station, Dhule. The crime therein and the consequential charge-sheet arising out of it are now sought to be quashed and set aside by way of instant applications by invoking the provisions under Section 482 of the Code of Criminal Procedure.

As both above the applications are heard at one and the same time and are answered by learned APP at one and the same time, the same are dealt and disposed of by way of common Judgment.

FACTS OF THE CASE IN BRIEF

2. On 17-05-2021 one Ashabai Rajendra Yeole, resident of plot No.E/D, Vijay Housing Society, Jaishankar Colony, Dhule, came out of the house at around 08:45 a.m. to dispose off garbage. While she was returning back, live electricity wire going overhead, got snapped and fell on the said lady. She got electrocuted and succumbed to it. The incident initially was reported as accidental death, but subsequently upon investigation, both above applicants are held responsible for the said episode being officials of the Maharashtra State Electricity Distribution Company Limited (MSEDCL) and accordingly are booked for above offences. The crime and consequent charge-sheet are now sought to be quashed and set aside.

SUBMISSIONS ON BEHALF OF APPLICANTS IN BRIEF

3. Learned Advocate for applicant in Criminal Application No.2366 of 2021 would submit that admittedly applicant is official of MSEDCL and working as Technician. However, he is falsely involved as he is not responsible in any manner to the alleged accidental death. That the lady got electrocuted because of accidental fall of live electric wire which was due to heavy storm. Therefore, implication of applicant is baseless. Even complaint is delayed for which there is no

explanation. Hence, for all above reasons, crime and charge-sheet are sought to be quashed and set aside.

4. Similarly, learned Advocate on behalf of applicant in Criminal Application No.2229 also took a stand that there is false implication. He was in no way concerned with the alleged negligence. Rather it was act of god. That even taking the FIR and the contents in the charge-sheet on their face value, there is nothing to connect present applicant to the accidental death of the lady. It is apparently abuse of process of law and so learned Advocate prays for grant of relief as prayed.

SUBMISSIONS ON BEHALF OF STATE

5. On behalf of State, learned APP answered above submissions of both the applicants and would point out that the applicants are posted in MSEDCL. They are working as Technician and Assistant Engineer respectively and are solely responsible for the maintenance and upkeep of the electric wires and appliances. That residents of the locality, where incident took place, had promptly and repeatedly reported continuous spark emanating from the electric wires. Had they attended the said complaint, the wire would not have got snapped and fell upon the lady and it is because of pure negligence

on their part that wire got snapped and fell on her and she died. Negligence is on the part of both the applicants and therefore, they are duly implicated and charge-sheeted. The learned APP, while concluding submitted that there is sufficient material on record and therefore, prosecution deserve to take up case for trial. Therefore, he prays for rejection of both the applications.

6. Here both the applicants, who are officials of the MSEDCL, have invoked powers of this Court under Section 482 of the Code of Criminal Procedure.

In catena of judgments, the Hon'ble Apex Court has time and again reiterated that inherent powers under section 482 of Code of Criminal Procedure can be exercised by the High Court; *firstly*, to give effect to an order under Cr.P.C., *secondly*, to prevent abuse of process of court and *thirdly*, to secure ends of justice. Law with regard to above section is dealt in series of landmark judgments viz. ***Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors.***, reported in ***(2007) 12 SCC 1 and Mahendra K.C. Vs. State of Karnataka and Another***; reported in ***(2022) 2 Supreme Court Cases 129***.

ANALYSIS

7. It is also settled law that powers under Section 482 of the Code

of Criminal Procedure are to be exercised in rare and exceptional cases only when it is demonstrated that there is apparent abuse of process of law. At this stage, while exercising above powers, High Court is not expected to analyze the material or conduct roving enquiry to fix responsibility or to absolve accused. Bearing in mind such settled legal provision, we proceed to examine the case in hand.

8. There is no dispute that applicant in Criminal Application No.2366 of 2021 is Technician and applicant in Criminal Application No.2229 of 2021 is Assistant Engineer. Further there is no dispute that they were posted at Dhule at the relevant time. Being officials of MSEDCL and holding responsible posts, they are expected to perform their duties and functions by virtue of the posts held by them.

It appears that on the fateful day, a lady namely Ashabai Rajendra Yeole, resident of Vijay Housing Society, Jaishankar Colony, Dhule, had come out of the house to dispose of garbage and unfortunately live overhead electricity wire fell upon her and she got electrocuted. Record shows that Department also initiated enquiry against both the applicants and even during investigation, statements of witnesses have come up regarding sparks emanating from the said overhead wire since two days prior to the occurrence. Witness speaks about complaining to that extent to the concerned authorities. Under

such circumstances, though it has come on record that there was storm /cyclone in the said vicinity, applicants were expected to attend the complaint and do the needful. Had they done so, probably the mishap could have been averted. However, it seems that they were negligent and therefore, are charge-sheeted for the offence under Sections 304-A and 287 of the Indian Penal Code alongwith offence under Sections 12, 35, 67 and 70 of the Electricity (Supply) Act, 1948. Consequently, it cannot be said that there is no *prima facie* material against them and that prosecution launched against them is an abuse of process of law. Therefore, in our considered opinion, here a lady has lost life because of negligence. Investigation has revealed responsibility of applicants and they to be negligent. In the light of such material on record, we are not inclined to grant relief as prayed.

ORDER

- (i) Both the Criminal Applications are dismissed.

[ABHAY S. WAGHWASE, J.]

[MANGESH S. PATIL, J.]