

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
REVISION APPLICATION NO.94 OF 2020

Shivprasad Shukla & Ors.	]	..	Applicants
vs.			
State of Maharashtra & Anr.	]	..	Respondents

Ms.Mallika Ingale for the Applicants.

Ms.P.N. Dabholkar, APP for the State-Respondent No.1.

Mr.A.M. Dubey for Respondent No.2.

CORAM : BHARATI DANGRE, J

DATE : 12th April, 2023

P.C.

1] The present Revision Application is filed being aggrieved by the impugned order dated 09.12.2019 refusing to exercise the power of discharge, by the Additional Sessions Judge, Borival Division, Dindoshi.

2] On extensively hearing the learned counsel for the Applicants, the learned counsel for Respondent No.2 and the learned APP, I am unable to persuade myself to find any legal flaw or infirmity in the impugned order.

3] Ms.Ingale would vehemently submit that the investigation carried out is loop-sided and all the material which she wanted to place on record to prove that the Applicants were not present on the spot, has not at all been taken into account.

She would rely upon the decision of the Apex Court, in the case of **Sanjay Kumar Rai vs. State of Uttar Pradesh & Anr. in Criminal Appeal No.472/2021**, where the Hon'ble Apex Court has clearly spelt out the scope of Criminal Revision and in Para 16 it has been specifically highlighted that while considering the discharge application, the Court would sift through the evidence in order to find out whether there are sufficient grounds to try the suspect and to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case.

Apart from this, she would rely upon specific observation to the following effect :-

“Likewise, the Court has sufficient discretion to order further investigation in appropriate cases, if need be.”

4] There can be no quarrel about the legal position, but looking to the facts of the case, I am unable to accept the submission of the learned counsel for the Applicants that the material compiled in the charge sheet is so insufficient that there is no chance that the prosecution can succeed. The victim/complainant had sustained 30 to 40% burn injuries and was on ventilator and it is only on 20.12.2013 her statement came to be recorded.

The critical nature of the injuries sustained, and with no reason to doubt her statement, I expressed my disinclination to entertain the Revision Application, pursuant to which the learned counsel for the Applicants, Ms.Ingale, seek withdrawal of the Revision Application. However, she would submit that liberty may be reserved in her to take out appropriate proceedings, seeking direction to the investigating agency to carry out further investigation as even the accused has right of fair trial.

5] In the wake of the aforesaid request, Revision Application is disposed off as withdrawn, with liberty as prayed for.

6] The observations made above are prima facie in nature and limited for the purpose of determination of the present Revision Application and the learned Judge trying the Applicants, shall not in any manner be influenced by the above order.

[BHARATI DANGRE, J]