

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.421 OF 2023

1. Rajesh Ramsoach Yadav,]
Age : 39 Yrs., Occ.: Business,]
Residing at Room No.4, Yadav Niwas,]
Pratap Nagar Road, Hanuman Nagar,]
Bhandup (West), Mumbai – 400 078.] .. Applicant

Versus

1. The State of Maharashtra,]
Through Senior Police Inspector,]
Vikhroli Police Station, Mumbai.]
2. Bramhdev Ramkripal Singh,]
Age : 37 Yrs., Occ.: Business,]
R/at 503-B, 2/A, Samta CHS,]
MMRDA Colony, Nahur Village Road,]
Subhash Nagar, Near Hanuman Temple,]
Nahur (West), Mumbai – 400 078.] .. Respondents

Mr. Ashutosh Shukla, with Adv. Enait Shaikh, for the Applicant.

Ms. S.D. Shinde, APP for Respondent No.1–State.

Mr. Manoj R. Yadav for Respondent No.2.

CORAM : SUNIL B. SHUKRE & M.M. SATHAYE, JJ

DATE : 27TH APRIL, 2023.

ORAL JUDGMENT : [Per Sunil B. Shukre, J.]

1. Rule. Rule made returnable forthwith. Heard finally, by consent of learned counsel for the applicant and respondent no.2 as also learned APP for respondent no.1–State.

2. The learned counsel for the applicant and learned counsel for respondent no.2, both, submit that there is an amicable settlement reached between the applicant on one hand and respondent no.2 on the other and, therefore, this application should be allowed on the basis of the consent given by respondent no.2.

3. Learned APP for respondent no.1-State submits that there is a specific role assigned to the applicant, which could be seen in the statement of respondent no.2-complainant dated 14th December 2021, from which it appears that the applicant was the person who had collected the ransom on behalf of the accused – Shakir Shaikh, and, therefore, this may not be a fit case for quashing of the crime in the cases of the consent given by the complainant. She also states that apart from the applicant, there are several other accused persons, who have been assigned as offenders in the present crime and the role of the present applicant is inter-linked with each other.

4. On going through the statement of respondent no.2-complainant, dated 14th December 2021, we find that there is great substance in the submission of learned APP for the respondent no.1-State. This statement shows that the ransom has been accepted by the applicant on the instructions of the main accused – Shakir Shaikh, who is a builder who has booked an order for supply of certain iron bars. This statement further shows that it was the main accused – Shakir Shaikh, who was directing the other accused persons to perform

different acts in the incident which occurred on 9th December 2021. These acts were like apprehending the Driver and Cleaner of the truck belonging to respondent no.2-complainant, their forcible confinement in some room, threatening the complainant of doing further harm to his Driver and Cleaner, if he failed to reach the spot of incident, calling the complainant to spot of incident under such threats, subjecting of Driver and Cleaner of the complainant and also respondent no.2-complainant to physical abuses and beating by means of iron rods and hockey sticks and then directing Rajesh Yadav to accept the ransom demanded from respondent no.2 – the complainant. These allegations would certainly show that they are interconnected with each other and there is no possibility of distinguishing role of the present applicant from the overall role played by the main accused – Shakir Shaikh.

5. In these facts and circumstances, the crime registered against the applicant cannot be quashed and set aside just because now the complainant is giving his consent for the same as that may pose difficulty to the prosecution in proving its case against the main accused-Shakir Shaikh and the other accused.

6. Learned counsel for the applicant submits that the applicant is, in fact, a friend of the complainant and the order that the complainant had placed for supply of iron bars to the builders was at the mediation of the applicant and that was the reason why the complainant had called the applicant to the spot of

incident in order to facilitate unlawful demand of ransom raised upon him by the main accused Shakir Shaikh and as such, it cannot be said that the applicant had played some role in furtherance of common intention of Shakir Shaikh. Thus, he submits that in any case, no offence is prima facie made out against the applicant.

7. We are not inclined to accept the argument so made on behalf of the applicant. The allegations made by respondent no.2-complainant, which are there in his statement dated 14th December 2021, are quite contrary to what has been submitted before us by learned counsel for the applicant. We have already sufficiently adverted to these allegations in the earlier paragraphs. They prima facie indicate that the applicant did, in fact, play an active role in order to enable the main accused-Shakir Shaikh achieve his criminal intention and thus, the applicant is, prima facie, a facilitator of the crime, which appears to have been committed by the other accused persons. Therefore, at the cost of repetition, we would say that the applicant could not be said to be a facilitator for the complainant; rather, he was, prima facie, a facilitator for the main accused-Shakir Shaikh in his design to commit various offences, which are alleged to have been committed by him. Even otherwise, whatever has been submitted by learned counsel for the applicant is in the nature of defence of the applicant, which would have to be considered upon appreciation of evidence that would be recorded in the trial, which is not the stage at present.

8. Thus, we find that the settlement between the applicant and respondent no.2-complainant cannot be accepted and it is rejected.

9. Criminal Application stands dismissed. Rule is discharged.

[M.M. SATHAYE, J.]

[SUNIL B. SHUKRE, J.]