

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.267 OF 2019

Kailas Krushna Kank

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi, Advocate for Applicant.

Mr. Arfan Sait, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th OCTOBER 2023

PC :

1. The Applicant has challenged the order dated 11th March 2019 passed by the Additional Sessions Judge, Pune in Sessions Case No.204/2015 thereby rejecting the Applicant's Application for discharge.

2. The subject matter of the case is collapse of a building known as "Pitaram Complex" at Bhumkar Chowk, near Narhe Ambegaon Road, Narhegaon, Taluka Haveli, District Pune. In the incident, one person has lost his life. Originally, there were seven Accused. Five of the Accused were discharged from the case. As of today, only the two Accused, including the present Applicant, are

facing the trial.

3. Learned A.P.P. stated before the Court that, during pendency of the present Revision Application, the Investigating Agency has filed a supplementary charge-sheet under Section 173(8) of Cr.P.C., which is based on the Forensic Investigation Report prepared by the Department of Structural Engineering, Veermata Jijabai Technology Institute (VJTI), Matunga, Mumbai. The report mentions specific reasons and the opinion. This has important bearing on the case. This report may or may not help the Accused in his defence but, in any case, it is an important document which needs to be taken into consideration at the stage of framing of the charge. Therefore, it would be in the interest of justice that, the Applicant is given another opportunity to prosecute his Discharge Application before the trial Court with specific reference to this report which would be a substantial change in circumstance. Learned A.P.P. on instructions of the Investigating Officer submits that the prosecution has no objection if the Discharge Application of the Applicant is directed to be heard afresh by the trial Court.

4. Considering the stand taken by the learned A.P.P. and also taking into account the substantial change in circumstance, in the interest of justice, it would be proper if the Applicant is given another opportunity to renew his prayer for discharge before the trial Court.

5. Hence, the following order:

O R D E R

i) The order dated 11th March 2019 passed by the learned Additional Sessions Judge, Pune in Sessions Case No.204/2015 thereby dismissing the Applicant's Application for discharge, is set aside.

ii) The said order was passed below Exhibit-15. Therefore Exhibit-15 is restored on the file of Sessions Case No.204/2015 before the learned Additional Sessions Judge, Pune.

iii) The said Application shall be decided afresh on merits on all the issues in the context of the

report submitted by VJTI under Section 173(8) of Cr.P.C.

iv) It is made clear that this Court has not made any observations on the merits of the matter.

v) The Discharge Application shall be decided on its own merits in accordance with law. It shall be decided as early as possible.

vi) With these observations, the Revision Application is disposed of.

(SARANG V. KOTWAL, J.)