



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO. 37 OF 2023

Dildar Baldar Tadavi and others
..VS..
C.B.I. (Special Crime Branch), Navi Mumbai and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Shashibhushan Wahane, Advocate for applicants.
Ms. Mugdha Chandurkar, Advocate for respondent No.1/CBI.
Mr. Sahil Mate, Advocate for respondent No.2.
Mr. A.P. Bhuihar, Advocate for respondent No.3.

CORAM : ANIL L. PANSARE, J.

DATED : AUGUST 21, 2023.

Heard.

2. The challenge is to the order dated 10.01.2023 passed below Exh.18 by the learned Sessions Judge, Yavatmal in Session Trial No.173/2019. The applicants are accused before the Sessions Court. They are all police personnel and were working in the police stations located in Yavatmal district. The applicants are facing trial for the offence punishable under Section 304-II and 331 read with Section 34 of the Indian Penal Code.

3. According to the prosecution, in the month of April 2003, a theft was committed in the dwelling house of Dr. Shrotri and Gajanan Bajaj. The then Superintendent of Police, Yavatmal formed teams of Police

Officers, appointed in various police stations and they were directed to trace the history-sheeters and to find out the culprits.

4. On 30.04.2023, one Ajay @ Ajit Madhukar Mohite was summoned at LCB Office, Yavatmal in connection with the aforesaid offence. He along with his uncle Shrikant Kharate appeared before the police. Ajay was taken in unlawful custody and his uncle Shrikant Kharate was forced to go back. On 01.05.2003, Ajay was beaten mercilessly. On that day, another person namely Suresh Sonkusare was picked up from his house and brought to the LCB Office. The applicants/accused have allegedly taken both Ajay and Suresh in one room of LCB Office, Yavatmal called as DB room. The witnesses, sitting in another room, heard the sound of beating by stick and belt and they also heard loud crying of both the victims. Later on, Ajay and Suresh were brought in the room where the witnesses were sitting. Ajay was semiconscious but Suresh was unconscious. The witnesses also expressed suspicion that the victims have taken poison "Endrine" as their mouth was smelling of poison. Ajay and Suresh were then removed to the hospital. Both have succumbed to the injuries/poisoning.

5. The probable cause of death was given as "unknown poisoning with bilateral aspiration with, with cardio respiratory arrest".

6. The learned counsel for the applicants has invited my attention to the proposed charges levelled

against the applicants in the charge-sheet. He submits that the prosecution's case, to attract ingredients of Section 304-II of the IPC is limited to beating by applicants, which case is destroyed by the cause of death, disclosed in the postmortem report.

7. The learned counsel for CBI, however, has rightly pointed out that the case of prosecution is not only of beating Ajay and Suresh by stick and belt but, is also of poisoning at the hands of applicants. She submits that the statements of witnesses indicate that Ajay and Suresh were taken in one room i.e. DB room and mercilessly beaten by the applicants. Though the witnesses have not seen the beating but, they have heard the helpless crying of the victims. Later on, they were brought in the room where witnesses were sitting and the witnesses have seen the injuries on the persons of the victims. The witnesses suspected administration of poison by the police. She submits that there is every reason to believe that except for police, no one else has administered the poison.

8. At this stage, learned counsel for the applicants submits that the case of prosecution is not of poisoning at all, as none of the witnesses has stated that the applicants have administered the poison, rather the statements are otherwise.

9. The learned counsel for CBI further submits that the applicants are influential persons. She submits

that though the incident is of the year 2003, the offence has been registered in the year 2019 upon intervention of the Hon'ble Supreme Court vide order passed on 26.10.2017 in Criminal Appeal No.1838/2017.

10. Having given thoughtful consideration to the submissions made by both the sides, I do find substance in the submissions made by the learned counsel for CBI. The case of prosecution is not only of beating the victims but also of administration of poison. The challenge raised by the applicants that there is no case of administration of poison, can only be tested during trial. The case against the applicants, as spelt out in charge-sheet is of beating by stick and belt and also of administration of poison called "Endrine".

11. There is thus no substance in the revision application. The same stands dismissed. No costs.

(ANIL L. PANSARE, J.)