



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 129 OF 2023

1. Alka w/o Popat Jadhav
2. Sonali @ Sonabai Atish Ubale
3. Deepali Rakesh Kamble
4. Swati @ Rupali Datta Bhingardive ...Applicants

versus

The State of Maharashtra ...Respondent

Advocate for Applicant : Mr. Rahul R. Karpe
APP for Respondent: Mr. Mukesh K. Goyanka

.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 28th MARCH, 2024.

PER COURT :-

1. This application is preferred against the order dated 10.01.2023 passed by the Additional Sessions Judge, Ahmednagar below Exh.20 in Sessions case No. 189 of 2021. It was an application for discharge under Section 227 of the Code of Criminal Procedure, 1973 (for short the Cr.P.C.).

2. Brief facts are as under:-

a) The informant Sau. Sangita Ashok Salve, the mother of deceased Rajni, lodged a report that her daughter, Rajni got married with Ravindra Popat Jadhav on 16.12.2018. The husband and

father-in-law of Rajni were frequently demanding some amount for construction of house and used to threaten her that they will expel her from their house and send her to her parental house. They expelled Rajni from their house. After convincing her husband and father-in-law she was sent back for cohabitation. On 7.8.2020, the informant made a phone call to her daughter Rajni on Mobile No. 9987157764. That time, she said that now she is fed up with the harassment caused to her by her husband and father-in-law. They beaten her and also again threatened to expel her from the house. That time, she stated that she will come to the informant but the informant convinced her. On that day, at about 6.00 to 6.30 p.m. the husband of Rajni made a phone call that she had consumed poison and she is admitted in Sonar Hospital, near Kinetic Chowk, Ahmednagar. Then they all went there. Rajni was unconscious. She died on 10.8.2020. A report was lodged against the husband and father-in-law of Rajni on the second day.

b) Thereafter, after a period of approximately four months, supplementary statement of the informant was recorded, in which she has stated that the applicants who are sister-in-laws of Rajni were also used to insult Rajni in derogatory language on this or that count. Rajni used to tell that fact to the informant. However, at that time, the informant's relatives convinced her not to mention the names of sister-in-laws and mother-in-law in the report and therefore, she did not allege against them.

c) The learned trial court while passing the impugned order has held that there is prima facie strong evidence against these applicants and the application was rejected.

3. Learned advocate for the applicants submits that there is delay in recording the supplementary statement of the informant and afterthought the allegations are made in it against these applicants. The applicant No.1, who is mother-in-law of Rajni and there is no specific allegation against her. As far as applicant Nos. 2 Sonali is concerned, she is married in the year 2005 and is residing at Bhingar, Ahmednagar. Applicant No.3 is married in the year 2009 and residing at Mumbai. Applicant No.4 is married in the year 2010 and she is residing at Mumbai. He pointed out the supplementary statement which is vague and no specific allegation of demand and its particulars are mentioned in the report, supplementary statement as well as in the statements of relatives of informant or witnesses. The abetment to commit suicide is not found in the report or statements of witnesses.

4. Learned A.P.P. for the State strongly opposed the application and submitted that names of the applicants are mentioned in the supplementary statement. Their role is specific. They have insulted the daughter of the informant Rajni. There is prima facie strong evidence against these applicants. It is lastly prayed to reject

the revision application.

5. Perused the charge sheet, particularly report and supplementary statement of the informant. To establish the essential ingredients of Section 227 of Cr.P.C. that there is no sufficient ground for proceeding against the applicants-accused, learned advocate has placed reliance upon the judgment of this court in the case of **Shrivina Vs. State of Goa and others, reported in MANU/MH/1878/2019**, decided on 9.7.2019, in which in para 19, it is observed that:-

“19. In the case of Yogesh cited (supra) in para 16, the Hon'ble Supreme court observed thus:

“16. It is trite that the words “not sufficient ground for proceeding against the accused” appearing in the section postulate exercise of judicial mind on the part of the judge to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. However, in assessing this fact, the judge has the power to sift and weigh the material for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine a prima face case depends upon the facts of each case and in this regard it is neither feasible nor desirable to lay down a rule of universal application. By and large, however, if two views are equally possible and the judge is satisfied that the evidence produced before him gives rise to suspicion only as distinguished from grave suspicion, he will be fully within his right to discharge the accused. At this stage, he is not to see as to whether the trial will end in conviction or not. The board test to be applied is

whether the materials on record, if unrebutted, make a conviction reasonably possible.”

6. In the supplementary statement recorded after four months of the alleged report, in which it is mentioned that the informant was convinced by her relatives not to mention the names of all these applicants in the report. Even in the supplementary statement though it is mentioned that when applicant Nos. 2 to 4 used to come for some festival, it is alleged that they used to insult Rajni, however, there is no specific allegation as to when they have harassed Rajni by demanding alleged amount of Rs.5,00,000/- for making remaining construction of house. This important fact alongwith delay caused in recording the supplementary statement is seriously and reasonably doubtful. There is no such prima facie material against these applicants to proceed with the trial. Thus, there are no sufficient grounds to proceed against the applicants. The application therefore, deserves to be allowed. The impugned order passed by the trial court dated 10.01.2023 below Exh.20 in Sessions Case No. 189 of 2021 deserves to be set aside. The applicants deserve to be discharged under Section 227 of the Cr.P.C.. Hence, the following order:-

O R D E R

- I. Criminal Revision Application is allowed.
- II. The order dated 10.01.2023 passed by the Additional Sessions Judge, Ahmednagar below Exh.20 in Sessions

Case No. 189 of 2021 is quashed and set aside.

- III. The applicant Nos. 1 to 4 are discharged from Sessions Case No. 189 of 2021.

(SANJAY A. DESHMUKH, J.)

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