



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 997 OF 2023

(Ajabrao s/o Yadavrao Lilhare ..vs.. State of Maharashtra, through its PSO, PS Tirora and another)

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

Court's or Judge's orders

Mr. R.A. Biranware, Counsel for the applicant,
Mr. N. Joshi, Addl.P.P. for non-applicant No.1/State,
Mr. Lokesh Pawankar, Counsel for non-applicant No.2.

**CORAM : VINAY JOSHI &
ABHAY J. MANTRI, JJ.**

DATE : 23-10-2024

This is an application seeking to quash criminal prosecution namely Special Case No.26/2023 arising out of Crime No.1011/2022 registered with Tirora Police Station for the offence punishable under Sections 304 and 201 of the Indian Penal Code, 1860 read with Section 135 of the Indian Electricity Act, on account of settlement.

2. The informant Sanjay who is son of deceased Shankar has lodged report on the basis of which crime has been registered. It is the prosecution case that the applicant was cultivating the small piece of land on shared basis. In order to protect the land from animals, he had erected wire fencing and running electric current was laid in the wire fencing. The deceased Shankar who was grazing his cattle, accidentally came into contact with wire fencing and due to electric shock, he died.

3. After investigation, charge-sheet has been filed. It is informed that yet the charges have not been framed. In the meantime, with the aid and intervention of villagers, the matter has been settled. The parties are residing adjacent to each others. The deceased Shankar left behind widow Kalabai, two sons namely Sanjay (informant), Anil and four daughters Chhya, Vanmala, Maya and Ratnamala. Mother of Shankar predeceased him. All the legal heirs are present before us who have been identified by their counsel. All of them filed reply-cum-affidavit stating that the matter has been amicably settled. It is informed that the applicant has already paid Rs.50,000/- (Rupees Fifty Thousand) towards compensation to the widow. All the legal heirs of Shankar are satisfied about the amount of compensation and thus urged that the matter can be disposed of as they do not wish to go on with the prosecution. Though the legal heirs of poor labourer are satisfied, however, we are not satisfied the quantum, hence we ask the applicant to pay more amount of compensation to the legal heirs of Shankar.

4. The learned Counsel, upon instructions, made a statement that the applicant would pay further amount of Rs.50,000/- (Rupees Fifty Thousand) in the account of the widow Kalabai within one week from today.

5. Though a person has lost life, however, it is not an intentional act. The very purpose of the applicant farmer was to protect his land. The offence cannot be termed as heinous

or antisocial in nature. In view of settlement, there is no purpose in pushing the parties to the trial as the witnesses may not support the prosecution case.

6. Having regard the peculiar facts of the case, we are inclined to exercise inherent powers as the continuation of prosecution amounts to abuse of process of court.

7. In view of above, the application is allowed. We hereby quash and set aside the criminal prosecution namely Special Case No.26/2023 arising out of Crime No.1011/2022 registered with Tirora Police Station for the offence punishable under Sections 304 and 201 of the Indian Penal Code, 1860 read with Section 135 of the Indian Electricity Act

The applicant shall deposit further sum of Rs.50,000/- (Rupees Fifty Thousand) in the bank account of widow namely Kalabai Shankar Dudhabure within one week.

8. Stand over on 11/11/2024 for reporting compliance.

(ABHAY J. MANTRI, J.)

(VINAY JOSHI, J.)