



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

CRIMINAL REVISION APPLICATION NO.210 OF 2023

Gorakh s/o Kundlikarao Shinde, Aged
63 years, Occu : Social Service, R/o At P-
Jejuri, Tq. Nilanga, Dist. Latur.

... APPLICANT_

VERSUS

The State of Maharashtra, through its
Police Station Officer, Police Station,
Andhera, Dist. Buldhana.

... NON-APPLICANT.

Shri S.D. Chande, Advocate for the applicant.
Shri S.C. Joshi, Additional Public Prosecutor for the State.

CORAM : SANDIPKUMAR C. MORE, J.
CLOSED ON : 17/12/2024
PRONOUNCED ON : 18/12/2024.

JUDGMENT :

The matter is heard finally with the consent of the parties,
at admission stage.

2. The applicant i.e. the original accused no.4 in the Sessions
Case no.6/2019 has challenged the order dated 08.08.2023 passed by
the learned Sessions Judge, Buldhana i.e. the learned Trial Court below
Exhibit 18 in the said case, whereby the application filed by the present

applicant under Section 227 of the Code of Criminal Procedure (CrPC) for discharging him from the offence, has been rejected.

3. The learned Counsel for the applicant/accused submits that the prosecution has levelled charge of criminal conspiracy against the present applicant for giving contract to other accused for committing murder of his brother-in-law Madhukar Gholap. He further submitted that the present applicant and the other accused thus facing charge under Sections 302, 201 and 120-B of the Indian Penal Code ('IPC'). He pointed out that initially there was nothing against the present applicant about his alleged involvement in the crime, but the prosecution later on come with the case that due to dispute with the deceased, the present applicant had conspired with other accused and on his say, the other accused killed Madhukar. He further submitted that nothing was there against the present applicant about his alleged criminal conspiracy with the other accused. However, the prosecution specifically tried to show the involvement of the applicant by recording the supplementary statement of the witnesses. According to him, those supplementary statements were, in fact, prepared by the Investigating Officer, wherein those witnesses came to know from the Investigating Officer about the alleged criminal conspiracy. He further pointed out that besides those supplementary statements, there is absolutely

nothing on the record about the involvement of the applicant in the aforesaid crime.

4. On the contrary, learned Additional Public Prosecutor by tendering the copy of the charge-sheet strongly opposes the submissions made on behalf of the applicant. He pointed out various documents forming part of the charge-sheet mentioning that the deceased had made several complaints against the present applicant in respect of the manner in which the applicant was running the School and misappropriating the funds. The learned APP further submitted that the amount given to one of the accused Sandip and the same was used by accused Sandip for purchasing a plot. According to the learned APP, the investigating machinery has seized the sale-deed of said plot. Witness Dinesh has stated that accused Sandip had in fact kept the said amount and sale-deed with him. Thus, learned APP prayed for rejection of the application, as *prima facie* material about the involvement of the applicant in the crime is there on record.

5. It is significant to note that while considering the discharge application, there is no need to held mini trial by discussing the material in detail. It is only expected that there should be *prima facie* material against the accused which raises sufficient suspicion about his involvement in the crime. Admittedly, the supplementary statements of

the witnesses are recorded in the manner that those witnesses came to know about the involvement of the present applicant in the crime from the investigating machinery. However, it is the case of prosecution that the deceased and accused no. 4 i.e. the present applicant were on inimical terms since the deceased was in service in the institution run by the present applicant. While serving in the institution of the present applicant, the deceased had made several complaints alleging that present applicant/accused no. 4 was misappropriating the funds received to the institution for his own benefits. Moreover, there are various CDR brought on the record by the Investigating Officer showing that the present applicant/accused no.4 and accused no.2 were in touch with each other constantly till the commission of murder of the deceased. On perusal of the charge-sheet, it is evident that there was certain recovery at the instance of the accused nos. 1 and 2. Further accused no. 2 had purchased certain property through sale-deed out of the amount of contract of killing, which was kept with one of the prosecution witnesses. Thus, considering the connection between accused nos.2 and 4 and the previous enmity of the present applicant with the deceased, there is *prima facie* material about the involvement of the present applicant in the crime and therefore, to establish the case of prosecution, trial against the present applicant is required. The Trial

Court while rejecting the application for discharge has considered all the aspects in detail about the alleged criminal conspiracy hatched by the present applicant along with the other accused. Therefore, the impugned order needs no interference at this juncture, and accordingly, the Criminal Revision Application stands dismissed.

(SANDIPKUMAR C. MORE, J.)

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