



Judgment

apl1393.24

1

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

CRIMINAL APPLICATION [APL] NO. 1393 OF 2024.

Mahesh s/o Kawdu Borkar,
Aged about 48 years, Occupation -
Farming, resident of Tehsil
Wasera, District Chandrapur 441223. ... APPLICANT.

VERSUS

1.The State of Maharashtra,
through the Police Station Officer,
Police Station Sindewahi,
District Chandrapur 441 223.

2.Akash Waman Khobragade,
Age 27, resident of Post Wasera,
Tehsil Sindewahi, District Chandrapur
441223.
(Original Complainant)

3.Asmi Ramehswar Gosavi,
Age 38, resident of Post Wasera,
Tehsil Sindewahi, District Chandrapur
441223.
(Daughter of deceased)

.. NON-APPLICANTS.

Rgd.

Shri S.K. Wankhade, Advocate for the Applicant.
Shri A.M. Joshi, A.P.P. for Non-applicant No.1.
Shri A.D. Mhala, Advocate for Non-applicant Nos.2 and 3.

CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.

DATE : SEPTEMBER 26, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

Admit. By consent of the learned Counsel for the parties,
the matter is taken up for final disposal.

2. This is an application seeking to quash criminal proceeding bearing Sessions Case No.116/2024 pending on the file of Sessions Judge, Chandrapur arising out of the first information report bearing Crime No.58/2024 registered with Sindewahi Police Station, District Chandrapur for the offence punishable under Section 304 of the Indian Penal Code on account of settlement.

Rgd.

3. On the basis of report lodged by the police officer, the aforesaid crime came to be registered. The facts in brief are that the applicant owns a piece of agricultural land. In order to protect the crops from wild animals, he has erected a fencing and allegedly put electric current therein. The deceased Lata Ladkar, an agricultural labour, on 14.12.2023 in the evening while doing work accidentally came into contact with the electric fencing and sustained shock, which resulted into her death. A case of accidental death was registered. Preliminary enquiry was made, in which it was found that the Lata died due to electrocution.

4. On the basis of the report, investigation was undertaken and on completion charge sheet came to be filed. In the meantime, the parties have settled the dispute. Though the police officer is a formal complainant, however, on the basis of grievance put by the non-applicant no.2 Akash Khobragade, the report is lodged. Non-applicant no.2 is nephew of the deceased lady. The matter is stated to

Rgd.

be settled with Akash, as well as the only legal heir of the deceased i.e. non-applicant no.3 Asmita, who is daughter of the deceased.

5. Since the parties are residing in the same area, they have decided to mutually settle the matter, as the applicant expressed his willingness to reasonably compensate the victim of the crime. Both non-applicant nos. 2 and 3 are present before this Court and are identified by their Advocate Shri A.D. Mhala. They have filed affidavits stating about the settlement and receipt of an amount of Rs.4 lakhs towards compensation. The non-applicant no.3 has also filed an affidavit stating that she is the only legal heir of the deceased lady. On our query, they accepted about receipt of compensation amount and gave their no objection. It is informed that a sum of Rs.2,50,000/- has been paid through Bank transfer in the account of husband of non-applicant no.3 Asmita, while an amount of Rs.1,50,000/- is paid in cash to her, which she has accepted.

6. By and large, it is seen that though negligence attributes,

Rgd.

however, the applicant, as a precautionary measure has put electric current in the wire fencing to protect his crops from wild animals. There was neither his intention, nor knowledge that particularly the deceased would be killed by such an act. The applicant has no criminal antecedents, nor any past offence is registered against him. He is an agriculturist, doing agricultural work on sharing basis.

7. In order to maintain cordial relations, the parties have decided to settle the matter. The heir of the deceased is satisfied about compensation and they do not want to continue the prosecution. Moreover, the learned Counsel for the applicant expressed that the applicant would pay an additional amount of Rs. 1 lakh towards costs. He also states that though charge sheet has been filed, yet the trial Court has not framed the charges.

8. The offence cannot be termed as heinous or antisocial. In the peculiar facts, we are inclined to exercise our inherent powers. Hence the following order.

Rgd.

ORDER

- [i] Criminal Application is allowed and disposed of.
- [ii] The Criminal Prosecution bearing Sessions Case No.116/2024 pending on the file of Sessions Judge, Chandrapur arising out of the first information report bearing Crime No.58/2024 registered with Sindewahi Police Station, District Chandrapur for the offence punishable under Section 304 of the Indian Penal Code is hereby quashed and set aside.
- [iii] The applicant shall transfer an additional amount of Rs.1 lakh in the account of non-applicant no.3 Asmita, within a period of two weeks from today and report compliance. The matter be listed for reporting compliance on 11.10.2024.

JUDGE

JUDGE