



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

CRIMINAL APPLICATION (APPP) NO.1878 OF 2023
IN
CRIMINAL APPLICATION (ABA) NO.752 OF 2023

Anjali Sumantrao Pant

Vs.

State of Maharashtra, Through Police Station Officer, Malkapur City
(Economic Offences Wing), District Buldhana

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicant.
Ms. Shamshi Haider, APP for respondent /State.
Mr. H. R. Gadhia, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/04/2024

1. The application is by one of the depositors
for engaging the Counsel to assist the prosecution.

2. Learned Counsel Mr. Gadhia submitted that
Vaibhavkumar Ganeshrao Patil is the son of one
depositor and also placed reliance on in the case of
Jagjeet Singh Vs. Ashish Mishra reported in **2022**
SCC OnLine SC 453 wherein it is held that a victim
has a right to be heard at every stage from
investigation to culmination of trial in
revision/appeal. He submitted that though the
applicant is not the informant but he is the one of the
depositor and due to the commission of the crime he
was also duped and therefore, his interest is involved
in the said proceeding and therefore, he be permitted
to assist the prosecution.

3. Learned Counsel Mr. Sirpurkar for the applicant strongly opposed the said application on the ground that the applicant - Vaibhavkumar Patil is not the informant and therefore, his application for assist to prosecution is not maintainable.

4. After hearing the learned Counsel for assisting the prosecution and learned Counsel Mr. Sirpurkar for the applicant and learned APP for the State, the issue involved in the present application is whether the application of the intervener can be entertained, when he is not the informant as far as the registration of the crime is concerned. Admittedly, the Public Prosecutor occupy the position to deal with the application for grant of bail in the criminal justice system. The crimes are treated as a wrong against the society as a whole, and his role in the administration of justice is special, as he is not just representative of the aggrieved person but he is the representative of the State at large, though he is appointed by the Government, he is not a servant of the Government or the investigating agency. He is an officer of the Court and his primary duty is to assist the Court in arriving at the truth by putting-forth all the relevant material on behalf of the prosecution.

5. The use of the term "assist" in the proviso to Section 24(8) is crucial, and implies that the victim's counsel is only intended to have a secondary

role to assist the Public Prosecutor. This is supported by the fact, in view of the Section 301 of the Code of Criminal Procedure, 1973. Thus, in view of Section 301 (2) of the Code, the private person if instructs a pleader to prosecute any person, he can assist the prosecutor by engaging a counsel, of course with the permission of the Court. Thus, the scope of Section 301(2) of the Code is specified by the Sub-Section (2) of the said Section. Of course, it is at the discretion of the Court whether the said person is to be allowed or not to allow. Admittedly, the definition of a private person is not defined anywhere in the Act, therefore, locus of the person requires to be seen.

6. "Locus Standi" signifies a right of appearance in a Court of justice or right to be heard or place of standing. Such a Locus Standi confers on a person only if he has an interest in the matter. The Victim/Private person in that sense does have an interest in the matter since it is he/she are the ultimate sufferer of such crime. However, under Section 301(2) of the Code, the legislature has consciously regulated it in the manner that the pleader so instructed by a private person, shall act in any such case under the directions of the Public Prosecutor only and not as an absolute legal right of independent appearance before the Court. The aforesaid provision is therefore, in a clear distinction from the specific provision under Section 372 of the

Code conferring upon the victim a distinct legal right to prefer an appeal which was not earlier available to him/her. The conscious distinction made by the legislature in the wording of the two provisions is apparent and with a definite legislative intent and purpose.

7. If by taking a view that victim/private party or informant has legal right to appear in a proceeding initiated at the instance of the accused under the provision of Section 301(2) of the Code, it would mean that the victim/private party is a necessary party in every such proceeding and as a matter of right is entitled to receive notice which is never the intention of legislature to confer specific legal right. Such interpretation is not appropriate while interpreting the specific language used in the statute keeping into mind its aim and object.

8. Upon considering the law laid down by the Hon'ble Apex Court in various decisions, the role and rights of the victims are recognised. On the basis of various decisions, it can be said that the Victim or a Private Person has the locus to appear in a proceeding initiated at the instance of the accused, in any case before any Court where it is an affected party, however, subject to the discretion conferred upon the Court, to be exercised in the manner as may be required in the facts and circumstances of a particular case. 'Locus Standi' as defined in the

Blacks Law Dictionary as 'the right to bring an action or to be heard in a given Forum'.

9. As per the Law Lexicon by Ramnatha Ayyer 'Locus Standi' signifies a right of appearance in a Court of justice or right to be heard or place of standing. Such a locus standi confers on a person only if he has an interest in the matter. The victim/private person in that sense who does have an interest in the matter, since he/she is not an ultimate sufferer of such crime, therefore, is not entitled to seek the help of Section 301(2) of the Code of Criminal Procedure Code.

10. In the present case, the applicant – Vaibhavkumar Patil who is the depositor and the entire amount deposited by him is at stake and therefore, he being the interested party is required to be permitted to interfere with the application and to assist the prosecution. In view of that, the application is allowed and disposed of.

(URMILA JOSHI-PHALKE, J.)