



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

30 CRIMINAL APPLICATION NO.1062 OF 2022

Manojkumar Singh Ramjiprasad Singh,
Age 38 yrs., Occ. Service,
R/o Near Jagdamba Mandir,
Dhanrapur @ Arar, Post. Bakhada,
Tq. Sarya, Dist. Majaffarpur (Bihar).

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through Police Inspector,
Taluka Jalna Police Station,
Tq. & Dist. Jalna.
- 2 Raju Sampatrao Kharat,
Age 38 yrs., Occ. Agri.,
R/o Nandapur,
Tq. & Dist. Jalna.

... Respondents

...

Mr. S.G. Kawade, Advocate for applicant
Mr. G.A. Kulkarni, APP for respondent No.1
Mr. N.S. Shah, Advocate for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 30th JUNE, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashment of Summary Criminal Case No.15/2021 pending before learned Chief Judicial Magistrate, Jalna arising out of First Information Report vide Crime No.143/2020 dated 15.03.2020 registered with Taluka Jalna Police Station, Tq. & Dist. Jalna, for the offence punishable under Section 304-A of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. S.G. Kawade for applicant, learned APP Mr. G.A. Kulkarni for applicant No.1 and learned Advocate Mr. N.S. Shah for applicant No.2. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 The First Information Report has been lodged by brother of deceased contending that he had received information around 8.00 to 8.30 p.m. from one Subhash Salve of village Kadwanchi that when Subhash was proceeding from his field at Kadwanchi on motorcycle, another motorcycle driver was ahead of him. The said motorcycle ahead of him fell into the ditch, which was dug for the construction of bridge. Therefore, Subhash parked his motorcycle and saw who is the person and then he came to know that he is Haribhau Kharat. As a result of the said accident Haribhau had

suffered serious injuries to his head and face. Informant Raju and his relatives went to the place, took Haribhau to Government Hospital, Jalna and during treatment he expired. According to informant, there were no sign boards and precautions those were kept at the construction site. It was the construction of Samruddhi Highway and that portion of the road was given on contract to M/s. Montecarlo Limited – Iron triangle Limited (JV) and, therefore, according to him, the owner and contractor are responsible for the death of Haribhau.

4 During the investigation the panchnama of spot has been carried out. After the inquest panchnama, the dead body was sent for Postmortem. Probable cause of death is head injury. Statements of witnesses were recorded. Investigating Officer then made communication to M/s. Montecarlo Limited – Iron triangle Limited (JV) as to who is the employee looking after the management of the portion of road where the accident had taken place. A certificate has been given by M/s. Montecarlo Limited – Iron triangle Limited (JV) that the present applicant is employee engaged as Laisoning Executive in Construction of Access Controlled Nagpur-Mumbai Super Communication Expressway (Maharashtra Samruddhi Mahamarg). It was stated that he has been authorized to submit and record all the legal hearings including any type of civil and criminal proceedings on behalf of the

M/s. Montecarlo Limited – Iron triangle Limited (JV). Interestingly, even the present applicant came to be arrested and was released on bail.

5 Contents of charge sheet would show that Investigating Officer has not recorded the statement of said Subhash Salve, who had allegedly seen the deceased going into the ditch. Where exactly he was i.e. what is distance between him and the deceased, would be a question. If we consider the spot panchnama, then it gives an impression that the ditch or spot is in the middle of the road which is stated to be elevated. In fact, in the spot panchnama it is stated that the said bridge is 20 feet in width, but it is not stated since which point the elevation is there and it is then stated that it was the road which was for the traffic. That means, the construction activity was not going on, but at the same time it is then stated that the height of the bridge is 15 feet. The square location is there at the middle and the iron rods could be witnessed. Now, we are unable to get what was the time of the accident, what was the visibility etc. The witnesses, whose statements under Section 161 of the Code of Criminal Procedure have been recorded, are all hearsay. Therefore, there is absolutely no evidence which would show that there was any kind of negligence on the part of applicant.

6 On the another front, it is also to be noted that the contract was given to the company. No statement of employee of company has been

recorded, which would show that present applicant had given directions for digging of ditch at the said place. The company had undertaken the said work and if there was any lapses in respect of indicators not placed to state that the work is in progress, then how the only one employee can be held responsible criminally. At the most, it would be an offence against the company and for that purpose we would rely on the procedure that is required to be undertaken that has been stated in Section 305 of the Code of Criminal Procedure i.e. procedure when corporation or registered society is an accused. It is then stated that where a corporation is an accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation. Here, this applicant appears to have been appointed as representative and, therefore, there is compliance of Section 305(2) of the Code of Criminal Procedure. Then sub Section (3) of Section 305 of the Code of Criminal Procedure provides – *Where a representative of a corporation appears, any requirement of this Code that anything shall be done in the presence of the accused or shall be read or stated or explained to the accused, shall be construed as a requirement that thing shall be done in the presence of the representative or read or stated or explained to the representative, and any requirement that the accused shall be examined shall be construed as a requirement that the representative shall*

be examined. That means, he can appear and plead for the corporation or the company, but he cannot be termed as an accused. In the personal capacity he cannot be made as an accused and, therefore, the procedure that has been adopted by Investigating Officer by making the present applicant as accused by name is wrong and illegal. Criminality cannot be so annexed in the personal capacity to the applicant. Therefore, case is made out for allowing the application partly. Hence, following order.

ORDER

i) The proceedings in Summary Criminal Case No.15/2021 pending before learned Chief Judicial Magistrate, Jalna, arising out of First Information Report vide Crime No.143/2020 dated 15.03.2020 registered with Taluka Jalna Police Station, Tq. & Dist. Jalna, for the offence punishable under Section 304-A of the Indian Penal Code, 1860, stands quashed and set aside as against applicant by name.

ii) We may permit Investigating Officer to make amendment in the charge sheet by making it against the company, as in First Information Report the allegations were made against the company/contractor.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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