

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1021 OF 2024

Sandip Dinkar Dalvi

.... Applicant

Versus

The State of Maharashtra and Anr.

.... Respondents

Ms. Tanvi Tapkire, Advocate for the Applicant.

Dr. A. A. Takalkar, A.P.P., for the Respondent – State.

Mr. Anil Vasantrao Deshmukh, Investigating Officer, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd DECEMBER, 2025.

P.C. :

1. By this application, the Applicant has challenged the order dated 1st April, 2021 passed by the learned Additional Sessions Judge, Sangli in Sessions Case No.57 of 2014, below Exhibit – 73, thereby summoning the Applicant as an accused as per Section 319(1) of the Criminal Procedure Code, 1973 (for short, “Cr.P.C.”), in respect of offences punishable under Section 302, 120-B read with Section 34 of the Indian Penal Code, 1860 (for short, “IPC”).

2. It is contention of learned counsel for the Applicant that as

per statement of Shri. Kumar Ghadge, Assistant Police Inspector (API), on dated 28th November 2013, he received information. On this information, the police registered an offence of murder of Mr. Deepak Patil against unknown persons. In complaint, it is mentioned that after the incident, the police approached the mother, sister and relatives of the deceased, but they refused to give any complaint against anyone. Initially, an offence was registered against unknown person.

3. Learned counsel further submitted that trial has been started, while recording the statement of mother of the deceased, she has stated that the Applicant had dispute with her deceased son, on the day of incident, she had seen the Applicant along with other summoned persons passing by in car near the incident spot. She has further stated that her son is murdered by the Applicant and other summoned persons on the ground of old dispute. Considering her statement, learned Sessions Judge has issued summons under Section 319(1) of Cr.PC. to the Applicant to add him and other as a co-accused, which is erroneous. Learned counsel further submitted that in investigation nothing is found against the Applicant hence, charge-sheet is not filed against him, but these facts are not considered by the

learned Sessions Court, hence, requested to allow the application.

4. It is contention of learned APP that the Investigating Officer had recorded the statement of mother of the deceased, and in that statement, she has stated that she was not in position or mental condition to lodge the complaint against anyone an entry to that effect was made in the station diary. After her statement recorded under Section 161 of Cr.P.C., the police investigated the role of the Applicant, but nothing incriminating was found against him. Learned APP submitted that she is making these statements on the instructions of Investigating Officer, who is present in the Court. Learned APP further submitted that nothing prejudice would be caused to the Applicant if they added as co-accused and they may get chance to rebut the prosecution's case. The Sessions Court has passed well reasoned order, no interference is required in it, and requested to reject the application.

5. I have heard both learned counsel. Perused impugned order passed by the Tribunal

6. Admittedly, the offence was registered against unknown person. It appears from the report given by Shri. Kumar Ghadge, API, that the deceased was found murdered with multiple injuries on his

body. Thereafter, the Investigating Officer approached the mother, sister and other relatives of the deceased to file complaint, but they refused to do so due to their mental condition. Subsequently, the statement of mother of the deceased under Section 164 of Cr.P.C. was recorded, wherein, she stated that she had seen the Applicant and other summoned persons travelling in the car near the incident spot, however, no specific role has been attributed to the Applicant. The Investigating Officer, who was present before this Court on last date, was queried regarding the role of the Applicant and the statement of the mother of the deceased. He has stated that he made investigation as per the statement of mother of the deceased, but he did not find role of the Applicant in the present crime, thereafter, he filed charge-sheet. If there is no role attributed to the Applicant, he cannot be compelled to face the trial, and I pass following order:

ORDER

- i. The application is allowed.
 - ii. The impugned order dated 1st April, 2021 passed by the learned Sessions Judge, Sangli, below Exhibit 73 is quashed and set aside.
7. In view of the aforesaid terms, the application is allowed

and disposed off.

(SHIVKUMAR DIGE, J.)