

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 15 OF 2024

Meena Jagdish Ramani And Ors. ... Applicants

Versus

State of Maharashtra ... Respondent

WITH
CRIMINAL REVISION APPLICATION NO. 93 OF 2023

Keshav Yellappa Dhotre ... Applicant

Versus

State of Maharashtra ... Respondent

.....

Mr. Sandeep C. Kekane a/w. Mr. Dhavan A. Shah and Mr. Rushikesh S. Kekane, Advocate for the Applicant in REVN/93/2023.

Mr. Meghashyam Kochrekar a/w. Mr. Kamlesh Y. Mali i/b. Meena Kshirsagar & Associates, Advocates for the Applicant in REVN/15/2024.

Smt. Sangeeta D. Shinde, APP for the State.

CORAM : SHIVKUMAR DIGE, J.

DATED : 27th MARCH, 2025.

P C. :

1. Both the Revision Applications are filed against the order passed below Exhibit-7 and Exhibit-8 in Sessions Case No. 479 of 2016 passed by learned Special Judge rejecting the discharge applications of the applicants. The offence under Sections 304(II) r/w 34 of Indian Penal Code has been registered against the applicants. Both the applicants are accused of the same crime, hence I am deciding both these applications by this common order.

2. It is prosecution's case that on 04.03.2015 first informant's sister-in-

law had gone to public toilet to answer nature's call, due to broken of toilet pot, she fell in septic tank. She died in said incident. It is alleged that the applicant Arun was Architect and he had prepared plan of said toilet and the applicant Keshav was Supervisor of said work.

3. It is contention of learned counsel for the applicants that the applicants have been falsely implicated in this case. It is alleged that the applicant Arun Sondulkar, was Architect and he has designed the said public toilet whereas the applicant Keshav Dhotre was the Assistant Engineer of BMC and his duty was to supervise all the work which falls in his jurisdiction including said public toilet. Learned counsel further submitted that the role of the applicant Arun Sondulkar was to prepare the plan of public toilet and hand over to BMC department and accordingly he did his work and Keshav Dhotre, Assistant Engineer has no concern with the said construction except the activities and supervising the work. There is no role of both the applicants in the said mishap. At *prima facie*, no case is made out against both of them but these facts are not considered by the learned Special Judge and has rejected their discharge applications, hence requested to allow both the applications.

4. It is contention of learned APP that applicants' role was crucial in construction of the public toilet, as the applicant Arun Sondulkar has prepared the sketch of the said toilet and it was the duty of the Keshav

Dhotre to supervise the work of the public toilet which comes in his jurisdiction. But both were negligent in their duties and due to their negligence, the deceased has lost her life. Learned APP further submits that learned Special Judge has passed well reasoned order. To prove role of the applicants in said crime evidence is required. At *prima facie* stage, they cannot be discharged from the said crime, hence requested to reject the applications.

5. I have heard all the learned counsel. Perused impugned order. While passing the order, the learned Special Court has observed that considering the role of the applicants and considering evidence of the witnesses there is *prima facie* case against the applicants. At threshold they cannot be discharged for the accusations against them. In my view, admittedly the incident happened at public toilet. The applicant Arun Sondulkar, was architect and he has prepared plan of construction of the said public toilet if he had prepared the plan, he cannot be held responsible for the death of the deceased or attributing his negligence to said death. The role of applicant Keshav Dhotre was to supervise the construction work of said toilet. The supervising work cannot be attributed as a negligence in the said incident as other toilet pots have not broken. But these facts are not considered by the learned Special Court. In my view, there are no sufficient grounds for proceeding against the applicants. Considering these

facts, I pass following order.

ORDER

- i. The order below Exhibit-7 and Exhibit-8 passed by the learned Special Court are quashed and set aside.
- ii. The applicants are discharged from the offences leveled against them in Sessions Case No. 479 of 2016.
- iii. Both the Revision Applications are allowed and disposed of.

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

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by SONALI
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2025.04.23
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