



Judgment

510 apl156.20

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO.156 OF 2020

Mrs.Shilpa w/o Dharmraj Roy,
aged about 30 years,
r/o Chamorshi, district Gadchiroli. **Applicant.**

:: V E R S U S ::

The State of Maharashtra,
through its Police Station Officer,
Police Station Aheri,
district Gadchiroli. **Non-applicant.**

Shri R.M.Daga, Counsel for the Applicant
Shri N.B.Jawade, Addl.PP. for the NA/State.

**CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.**

CLOSED ON : 01/12/2025
PRONOUNCED ON : 05/12/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

1. Heard learned counsel Shri R.M.Daga for the applicant and learned Additional Public Prosecutor Shri N.B.Jawade for the State. **Admit.** Heard finally by consent of learned counsel for parties.

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2. The present application is preferred by the applicant, who is accused No.3, under Section 482 of the CrPC for quashing of FIR in connection with Crime No.65/2019 initially registered under Sections 120-B, 307, and 326-A read with 34 of the IPC and subsequently converted under Section 302 of the IPC.

3. Brief facts necessary for disposal of the application, are as under:

One Samadhan Kasture, lodged a report with Aheri Police Station alleging that during intervening night of 14.3.2019 and 15.3.2019, at about 2:00 am, when he was sleeping in house, three unknown persons entered into his house and insisted him to consume liquid, which was with them in a bottle. On refusal by him, the same was thrown on his person, due to which he sustained burn injuries on his entire body. On the basis of the said report, the police registered the crime against other two

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co-accused. During investigation, it revealed to the investigating officer that there was illicit relationship between the applicant and the deceased and, therefore, accused No.1, who is husband of the applicant, entered into conspiracy with the applicant and other co-accused and in pursuance of the said conspiracy, threw the acid on the person of the deceased as she did not want to continue the relationship with the deceased and thereby committed his murder. On the basis of the said investigation, chargesheet is also filed against the applicant and other co-accused.

4. By this application, the applicant is seeking quashing of the FIR as well as consequent proceeding arising out of the same bearing Sessions Case No.86/2019.

5. Learned counsel for the applicant submitted that except the allegation, that there was illicit

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relationship between the applicant and the deceased, there is absolutely no material to show that she was part of conspiracy. He submitted that statement of the deceased, recorded prior to his death, also nowhere discloses that there was illicit relationship between him and the applicant. During investigation, the investigating officer recorded statements of witnesses. From the said statements of witnesses, especially statement of Saurabh Halder shows that on enquiry by him with the deceased, the deceased disclosed that he got acquaintance with the applicant through one Amruta Sarkar and they are only friends and nothing more than that.

He also invited our attention towards statement of Shiwani Goldar and submitted that even accepting her statement, there is nothing on record to show that the applicant is having any animus to eliminate the deceased. Merely because she is wife of the co-

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accused, on baseless allegations, she is arraigned as accused.

As far as conspiracy is concerned, there is absolutely no material to connect the applicant with the alleged offence as, even, no circumstantial evidence is on record to disclose that she is part of the conspiracy.

6. *Per contra*, learned Additional Public Prosecutor for the State strongly opposed the application and submitted that the entire case is based on circumstantial evidence. The statements of witnesses disclose that there was acquaintance between the applicant and the deceased. As the husband of the applicant was in jail, she developed relationship with the deceased and when her husband was about to be released from the jail, she wanted to end the said relationship and, therefore, with the help of her husband and other co-accused, she eliminated the deceased.

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Thus, considering the statement of Shiwani, *prima facie* case is made out against the applicant and, therefore, the application deserves to be rejected.

7. After hearing both the sides and perusing the entire investigation papers, it reveals that chargesheet is filed against the applicant on allegation that she was having illicit relationship with the deceased when her husband was in jail. Her husband was about to be released from the jail and, therefore, she was not intending to continue the said relationship and the deceased was insisting her to meet him and, therefore, with the help of husband, she has committed murder of the deceased.

8. It is pertinent to note that the prosecution case itself is that there was no good relationship between accused No.1 Dharmraj Roy and the applicant.

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9. Statement of the deceased was recorded prior to his death, which shows that there was only acquaintance between him and the applicant and not more than that.

10. During the investigation, various statements were recorded by the investigating officer. None of statements discloses that the applicant was intending to eliminate the deceased as she does not want to continue the said relationship.

On the contrary, statement of Saurabh Halдар shows that the deceased once disclosed him that he is having friendship with the applicant and not more than that. His statement further states that co-accused enquired the applicant as to her relationship and she also disclosed that she is only having acquaintance with the deceased and no such relationship is there.

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Even, if the statement of Shiwani is taken into consideration, it shows that the applicant once disclosed her that she has informed the deceased that now her husband is about to be released from jail and she cannot continue the relationship with him. Even, accepting the said statement as it is, it nowhere discloses that there was illicit relationship between the deceased and the applicant and she was involved in conspiracy.

11. Admittedly, no direct evidence would be available as far as conspiracy is concerned, but there has to be at least some material to show that the applicant was member of the said conspiracy and there was agreement between them. On the contrary, summary of the chargesheet itself shows that there was no good relationship between the applicant and the co-accused Dharmraj, who is her husband.

12. Thus, the entire chargesheet is based on circumstantial evidence.

13. It is trite law that to hold accused guilty on the basis of circumstantial evidence, the prosecution must establish each of circumstances on which it proposes to rely and circumstances relied upon must be of a definite tendency unerringly pointing towards guilt of accused and must form a chain so far complete that there is no escape from conclusion that within all human probability, it is accused and no one else who had committed the crime and it must exclude all other hypothesis inconsistent with his guilt and consistent with his innocence.

14. By applying the above said law to the present case in hand, from the entire chargesheet, it would show that not a single circumstance is on record to show that the applicant is involved either in criminal conspiracy or in eliminating the deceased.

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15. The law relating to quashing of FIRs was explained by the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which are required to be considered while considering applications for quashing of the FIRs, which read as under:

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investi-

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gation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

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(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an

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ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

16. By applying the aforesaid principles to the present case is hand, as, at this stage, no *prima facie* case is made out against the applicant, the applicant has made out a case for quashing of the FIR.

17. In this view of the matter, the application deserves to be allowed, as per order below:

ORDER

(1) The Criminal Application is **allowed**.

(2) The FIR in connection with Crime No.65/2019 initially registered under Sections 120-B, 307, and 326-A read with 34 of the IPC and subsequently converted under Section 302 of the IPC and the subsequent proceeding arising out of the same bearing Sessions Case No.86/2019

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are hereby quashed and set aside to the extent of
applicant Shilpa w/o Dharmraj Roy.

Application stands **disposed of**.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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