



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

CRIMINAL WRIT PETITION NO.647 of 2024

Vijay Babarao Shende and three others

vs.

The State of Maharashtra, through P.S.O., P. S. Gadge Nagar, Amravati.

Mr. P. R. Agrawal, Advocate for petitioners.

Ms Kalpana Bhongde, Additional Public Prosecutor for respondent.

CORAM :- NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 19th MARCH, 2025

P. C.

Heard.

Corrected as per
Honble Court's
order dated
06.05.2025.

2. In Crime No.266 of 1987, petitioner Nos.1, 2, 3 and 4 were accused Nos.36, 38, 40 and 52 respectively and they have prayed for quashing of the prosecution on the ground of delay in concluding the trial so also the absence of material so as to sustain the prosecution against the petitioners.

3. Mr. P. R. Agrawal, learned counsel appearing for the petitioners would invite our attention to the Division Bench order delivered in Criminal Writ Petition No.423 of 2023 dated 12.02.2024 in the aforesaid crime in relation to the Co-accused.

4. According to the learned counsel appearing for the petitioners, the incident took place in the year 1987, wherein the differences arose in between the groups of students from two different educational institutions. According to him, the petitioners though are arrayed as accused, there is hardly any material to connect the petitioners with the offence in question. That being so, the provisions under Section 149 of the Indian Penal Code are invoked as the petitioners were allegedly present on the spot of the incident. According to him, none of the witnesses has named the petitioners as accused and in such an eventuality, even prosecution cannot be taken to its logical end.

5. As against above, the learned APP would urge that the role of the petitioners can be appreciated, while deciding the trial as the petitioners are added as the accused in the aforesaid crime, they being students and having

participated in the incident.

6. We have considered the rival submissions.

7. It can be gathered from the record that the incident in question has occurred in the year 1987, which led to the registration of Crime No.266 of 1987 punishable under Sections 395, 147, 148, 149, 353, 332, 333, 324, 325, 336, 337, 447 and 427 of the Indian Penal Code read with Section 4/25 of Arms Act and Section 135 of the Maharashtra Police Act.

8. The fact remains that the provisions of Section 149 of the Indian Penal Code are invoked against the petitioners having regard to the fact that there are no eye witnesses naming the petitioners as accused, who have actually participated in the offence in question.

9. Considering the genesis of the offence, the fact remains that, based on conjecture and surmises, the prosecution cannot be taken to its logical end, thereby achieving the very object of securing conviction of the petitioners.

10. Apart from above, the number of accused, who are involved in the offence in question, perhaps prompted the trial Court not to conclude the trial for last more than 36 years.

11. In this background, no fruitful purpose can be served, so as to keep the prosecution pending against the petitioners. As regards the other co-accused, this Court has already taken a view of quashing of prosecution against the similarly placed accused persons vide order dated 12.02.2024 delivered in Criminal Writ Petition No.423 of 2023.

12. That being so, we deem it appropriate to allow the present writ petition.

13. We hereby quash and set aside the charge-sheet in Sessions Case No.421 of 2019 pending before the learned District Judge-4 Amravati arising out of First Information Report bearing Crime No.266 of 1987 registered with Police Station Gadge Nagar, Amravati for the offences

punishable under Sections 395, 147, 148, 149, 353, 332, 333, 324, 325, 336, 337, 447 and 427 of the Indian Penal Code read with Section 4/25 of Arms Act and Section 135 of the Maharashtra Police Act as per its prayer clause (i) to the extent of present petitioners only.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.