IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2717 OF 2023

Dinesh Kadu Pagar .. Applicant

versus

The State of Maharashtra
& another .. Respondents

Mr. P. C. Mayure, Advocate for the Applicant.
Mr. N. R. Dayama, APP for the State.
Ms. S. R. Gaikwad, Advocate (appointed) for Respondent No. 2.

WITH
CRIMINAL APPLICATION NO. 2749 OF 2023

Durgesh Dayaram Salunkhe .. Applicant

versus

The State of Maharashtra
& another .. Respondents

Mr. A. S. Sawant, Advocate for the Applicant.
Mr. N. R. Dayama, APP for the State.
Ms. S. R. Gaikwad, Advocate (appointed) for Respondent No. 2.

CORAM : R. M. JOSHI, J.
DATE : 15th OCTOBER, 2026.

ORDER :

1. These applications under Section 482 of Code of Criminal Procedure seek quashment of First Information Report bearing no. 250/2021 registered with Chalisgaon Road Police Station, District

Dhule for the offences punishable under Sections 304, 287 read with Section 34 of Indian Penal Code and consequent charge-sheet and order of issuance of process against the Applicants.

2. It is the case of the prosecution that on 14.08.2021, while the deceased was working on the pole of Maharashtra State Electricity Distribution Company Limited (for short "MSEDCL"), came into contact with street light pole and died due to electrocution. Initially, A.D. No. 9/21 came to be registered under Section 174 of Code of Criminal Procedure and statements were recorded. On the basis of First Information Report lodged by Police Head Constable, it was attributed against the accused persons that on account of their negligence, the death of the deceased has caused. There is also allegation with regard to failure on the part of the authorities of MSEDCL to take adequate measures and to supply safety instruments to the workers i.e. deceased and on account of the same, the death has occurred.

3. Learned Counsel for Applicant submits that Applicant Durgesh is the Additional Executive Engineer and though it can be said that he was over all responsible for the functions/activities carried out on

behalf of MSEDCL, it is his contention that considering the incident it cannot be said that the deceased and others were performing any work for and on behalf of MSEDCL or any such work carried out was allotted by the contractor. In this regard, he made reference to the charge-sheet wherein, according to him, there is evidence to show that after completion of assigned work the deceased and his colleagues went to the spot on the request of an individual, the repair work was sought to be carried out. It is his submission that the Applicant could have been held responsible for the alleged work provided any permission was sought for the purpose of said work or any pass was issued. It is his submission that having regard to the material collected during the course of investigation, it cannot be said that the Applicant in any way was connected with the work in question in order to attribute any offence against him. It is his further argument that though there is allegation that MSEDCL has failed to maintain the line and DP properly, however, according to him, the incident has not occurred on account of any property of MSEDCL however, it has admittedly caused due to the deceased coming in contact with the street light pole maintained by the local body. It is his submission that having regard to the said fact, this allegation against the Applicant cannot sustain.

4. Insofar as Applicant Dinesh is concerned, learned Counsel for this Applicant contends that though admittedly Applicant is the labour contractor and deceased was working with him, there is evidence on record to show that the work was being done by the deceased in his individual capacity and was never assigned by the contractor. He drew attention of the Court to the evidence on record indicating that the deceased has not died on account of fall from the pole, as before he could land on the floor, he was caught by 4 to 5 persons. It is submitted that it is a case of pure unfortunate accident without there being any negligence of any person involved therein. According to learned Counsel for both the Applicants, the material on record does not indicate any offence being committed by the Applicants and as such, they cannot be forced to undergo the rigors of criminal trial.

5. Learned APP opposed grant of any relief to the Applicants by submitting that Applicant Durgesh who was the Additional Executive Engineer, was solely responsible for the work carried out on the electricity lines of MSEDCL. According to him, Applicant's role and responsibilities in the said crime would be a matter of decision before the Trial Court and at this stage, it is not open for this Court to

exercise extra ordinary powers to quash the proceeding. With regard to Applicant Dinesh, it is submitted that there is no dispute with regard to the fact that the deceased was working with him. He drew attention of the Court to the statement of Rais Patel indicating that the safety equipments were not provided by the contractor and as such, he is responsible for the death of the deceased. According to him, the occurrence of said incident is an issue which could only be decided by leading evidence before the Trial Court.

6. There cannot be any dispute with regard to the preposition sought to be made on behalf of the prosecution that in case disputed facts are there the same would be subject matter of decision of trial by leading evidence. The Hon'ble Supreme Court in case of State of Haryana and others Vs. Bhajan Lal and others, **1992 SCC (SUPP) 1 335**, has laid down guidelines/principles, by following which, the order of quashment of criminal proceeding can be passed. Needless to say that extra ordinary jurisdiction of this Court can be exercised only after entire material accepted on record does not indicate commission of any offence against the Applicant.

7. Here in this case, there is absolutely no material on record to indicate that the incident in question has occurred while the work of MSEDCL was contracted out to the contractor i.e. Applicant Dinesh and that Applicant Durgesh i.e. Additional Executive Engineer, was in any way concerned with the said work. It is admitted position that in case such work was to be actually performed, there needs a pass/permit and once such permit is issued, the electricity connection is disconnected. In any case, there is no such evidence on record to indicate issuance of any pass/permit for carrying out said work. Most importantly, as admitted by the prosecution, the incident has not occurred on account of any fault in the electricity line of MSEDCL but has occurred as the deceased unfortunately came into contact with the electricity pole maintained by the local body. MSEDCL has no control over the said pole and as such, it cannot be said that either of the Applicants are responsible for it. However, admittedly, deceased did not die by fall but died on account of electrocution. Though there is statement of Rais Patel with regard to non-supply of safety measures, there is absolutely no whisper as to what safety measures were not provided nor there is anything on record to show that the accident has occurred for want of safety measures.

8. Having regard to above discussion and considering the peculiar facts of the case, when there is no role of the present Applicants and there is no evidence against them indicating their direct or indirect involvement, they cannot be compelled to undergo the rigors of trial. Hence, both the Applications stand allowed.

9. Fees of the appointed Counsel is quantified at Rs. 7,500/- in each application.

(R. M. JOSHI, J.)

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