

N.S.Kamble

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

CRIMINAL REVISION APPLICATION NO. 492 OF 2025

Raghunath Rajaram Yemul

....Applicant

VERSUS

The State Of Maharashtra

....Respondent

Mr.Amit Desai, Senior Advocate a/w Mr.Abhishek R. Avachat and Mr.Siddhant Deshpande i/b P.V. Pardeshi and Associates, for the Applicant.

Ms.R.D. Humane, APP for Respondent-State.

Mr.Siddharth Jagushte, for Respondent No.2. (Through V.C.)

Ms.Snehal Patil, PSI, Chatushrungi Police Station, Pune City.

CORAM : SHIVKUMAR DIGE, J.

DATE : 17th APRIL 2026

P.C. :

1. The challenge in this Criminal Revision Application is to the order passed in SC No.877 of 2021 below Exhibit-30 by learned Additional Sessions Judge, Pune whereby learned Judge has rejected discharge Application of the Applicant.

2. The prosecution's case in brief is as under:-

The complainant Mrs.Muktai Gaikwad lodged complaint on 30th June 2021 against her husband and in laws alleging that they physically and mentally tortured her for demand of dowry and other allegations are also made in complaint. On 10th July 2021, the Complainant gave her

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supplementary statement alleging that Accused No.3 and 4 kept a lemon spread with turmeric and vermilion powder over it in one bag. On being asked about it, they left from there. It is alleged that Accused No.1 Ganesh Gaikwad told her that his guru i.e. present Applicant told him that Complainant was “bad luck” for him and, if she remains in his life, there will be no growth in his political carrier and advised him to leave the Complainant. On the basis of her supplementary statement the Applicant was added as an Accused No.9 and Section 3(2) of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 (‘Black Magic Act’ for short) was added.

3. It is contention of learned senior counsel for the Applicant that the Applicant’s name was not mentioned in the FIR. There are no specific allegations against the Applicant in FIR. After 10 days of registering the FIR, supplementary statement of the Complainant was recorded and in the said supplementary statement, role of the Applicant is attributed to him advising the husband and co-accused against the Complainant. The learned counsel further submitted that the allegations against the Applicant are hearsay. In charge-sheet, there is no direct evidence against the Applicant. The statement of Rajeshkumar Mishra, the driver of Accused No.2 is

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recorded after three months of the FIR. The statements of other witnesses also show that Accused No.1 was acting on the advice of the Applicant, it does not prove that the Applicant used any black magic against the First Informant. The statements of all these witnesses are hearsay. The Applicant never met the First Informant. There is no material at all produced on record to prove the case against the Applicant. The allegations do not fall under the Schedule of Black Magic Act and requested to allow the Application.

4. It is contention of learned APP along with learned counsel for Respondent No.2 that the Application is not maintainable as earlier discharge Application of the Applicant was rejected by the learned Sessions Judge in the year 2022. Thereafter, other discharge Application was filed by the Applicant which was withdrawn and thereafter, third discharge Application was filed. The order on the said discharge Application is under challenge. The learned APP further submitted that the issue of limitation would come into play as the Applicant did not challenge the previous two orders and he cannot challenge the third order directly. The learned APP further submitted that there are statements of witnesses which show that Accused No.1 and co-accused were acting on advice of the Applicant, which shows involvement of the Applicant in crime. To prove innocence of the

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Applicant in the crime, evidence is required. At *prima facie* stage, the Applicant cannot claim innocence. The learned Sessions Judge has passed well reasoned order and no interference is required in it and requested to reject the Application.

5. I have heard all learned counsel. Perused impugned order and charge-sheet.

6. Admittedly, name of the Applicant was not mentioned in the FIR. The allegations against the Applicant are that he is the guru of Accused No.1 and his family members and on advice of the Applicant, all the accused mentally and physically tortured the First Informant. It is alleged that the Applicant had labelled the First Informant as bad luck for the Accused No.1. The statement of driver of the Accused No.2 i.e. Rajeshkumar Mishra is recorded, he has stated that he knows the Applicant and Accused No.1 used to act as per direction of the Applicant. He further stated that as per wrong advice of the Applicant, all Accused harassed the First Informant that led her to leave the house. The statement of this witness is recorded on 14th September 2021 i.e. around after two months of recording of supplementary statement.

7. The statements of other witnesses Ekant Patil, Hitesh Bhosale, are on the same footing and are hearsay. From the statements of these witnesses, it appears that (accused No.1) husband of the First informant used to act as per

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say of the Applicant. No evidence produced on record to prove the role of the Applicant in present crime and to prove that, on the say of the Applicant, Accused No.1 and co-accused tortured the First Informant. Putting the lemon spread with vermilion and turmeric over it cannot be attributed to the say of the Applicant and it comes under Schedule of Black Magic Act. In respect of the issue of previous Discharge Applications, in my view, though earlier discharge Application of the Applicant was rejected, thereafter, other Discharge Application was withdrawn, but there is no case at all against the Applicant. Hence, not challenging the earlier discharge order would not prove fatal to the Applicant's case.

8. In view of above, I pass following order.

ORDER

- (i) The Application is allowed.
- (ii) The Applicant is discharged from the offence punishable under Section 3(2) of the *Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013* in CR No.293 of 2021.
- (iii) Application is allowed in the aforesaid terms.

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(iv) All pending Applications are disposed of.

(SHIVKUMAR DIGE, J.)