

MHAU110003682023



RCC No.64/2023

State Vs. Harikisan @ Haribhau Apparao Pathrikar

ORDER BELOW EXH.19

This is an application filed by Ld. Advocate S.S.Patil for permission to make independent oral and documentary submissions on behalf of complainant / victim.

2. The Ld. Advocate contended that, the complainant victim has appointed to represent him and to Assistant Public Prosecutor in this case. Accordingly, the undersigned Advocate given application under section 302 of Cr. P. C. for permission Assist the Public Prosecutor. In it He further contended that, he refrained the court to make independent and oral submission and insist him to make any submission through the Ld. Public Prosecutor. He further contended that, by relying on judgment of full Bench of Hon'ble Supreme Court ***Jagjeet Singh and others vs. Ashish Mishra and Mono and others Supreme Court 2022 LiveLaw (SC) 376***, the victim / complainant vested right to heard at every step. It is necessary to give opportunity to fair and effective hearing. Hence, prayed permission to make independent and documentary submissions.

3. Ld. A.P.P. filed his say and submitted that, suitable order may kindly be passed as per the judgment of Hon'ble

Supreme Court in *Jagjeet Singh and others vs. Ashish Mishra and Mono and others*, *Supreme Court 2022 LiveLaw (SC) 376*

4. Heard Ld. Advocate and Ld. A.P.P. Perused record and the roznama of the case. From it appears that, charge against the accused were framed on 8/6/2023 at Exh.12 u/sec. 324, 323, 504, 506 r/w 34 of I. P. C. After that, summons were issued to witnesses on 20/8/2024. Report of summons Exh. 17 received and same were reissued. The same reissued summons received as per report Exh.18 which again reissued by this court.

5. Therefore, the contention of the Ld. Advocate in respect of this court that the court refrained from to make independent written and oral submission to the court and always insist to make such submission through the public prosecutor and caused delay for trial. On perusal of the record before this application, no application filed on behalf of the complainant to assist the Ld. A.P.P. and appointment of Advocate for assist the Ld. A.P.P. therefore, without the filing application and sort the permission the Ld. Advocate have no authority to submit before the court. Firstly, the Ld. Advocate filed an application to assist the Ld. Advocate with the signature of the victim.

6. As going through the Judgment of Hon'ble Supreme Court *Jagjeet Singh and others vs. Ashish Mishra and Mono and others*, *Supreme Court 2022 LiveLaw (SC) 376* . The Hon'ble Apex Court , while deciding the the situation whether victim

is entitled to be heard at the stage of adjudication of bail application of an accused, observed that in para No. 24 and 25 that, the victim has the right to participate in criminal trial and he / her right to know the status of investigation and take necessary steps, or to be heard at every crucial stage of the criminal proceeding including at the time of grant or cancellation of bail.

7. Considering the above facts, No doubt, it is the settled position settled by the Hon'ble Apex Court in above mentioned citation, the victim has the right to take part in the criminal proceeding. But, the victim / complainant should follow the proper procedure of the law. In case in hand till today the victim / complainant has not filed the application for appointment of advocate to assist the Ld. A.P.P. Further, there is no allegation in this application that the Ld. A.P.P. not doing his duty or he did anything which is prejudice to the victim. Therefore, in view of this court by giving liberty to the victim / complainant to file the application for appointment of personal Advocate to assist the Ld. A.P.P. Hence, at this stage this application not tenable. Hence, rejected.

Date :- 19/12/2024.

(Dhananjay S. Deore)
Judicial Magistrate First Class,
Court No.2, Phulambri.

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file order are same,
word to word, as per the original order.

Name of the Stenographer	:	S. D. Chavan Stenographer
Court	:	CJJD Court, No. 2, Phulambri.
Date	:	19/12/2024
Order signed by the presiding officer on	:	20/12/2024
Order uploaded on	:	20/12/2024

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