

RCC 32/2011
State Vs. Mukund and other

ORDER BELOW EXHIBIT – 54
(Passed on this 24th day of January,2023)

1. Present application is preferred by accused no.6 under Section 306 of Criminal Procedure Code. It is submitted that, this accused has purchased the disputed property after paying entire amount to accused no.1. Accused no.1 Munkund Ganesh Barve was holding power of attorney of a company to look after entire property. The name of the accused appeared in the 7/12 extract and after verification of documents property was came to be purchased. There is positive evidence on record to prove the fact that, this accused has not been committed offence. Accused no.1 cheated therefore present accused cannot be prosecuted. The accused is ready to depose all the true facts before this Court. Hence, requested to become a approver in the present case.

2. Per contra prosecution submitted that permission can be granted if the accused ready to comply with the condition of making full and true disclosure of the whole circumstances within his knowledge related to the present offence, and every person concerned with the commission of the offence. Hence, appropriate order may be pass.

3. Accused no.6 relied upon - *Maosi Nancy Jain Vs. State of Maharashtra, 1985 Mh.L.J. 469.*

4. The Hon'ble Bombay High Court held that- Section 306 of Cr. P. C. does not contemplate that pardon must be relate to a person who is accomplice or implicate himself in the offence. The wording of the Section 306 of Cr. P. C. only that making of full and true disclosure of the circumstances within knowledge related to offence.

5. I have gone through the chargesheet. As per the prosecution case, the accused no.1 is master mind of the present case and he had hatched conspiracy alongwith other accused persons. Thereby offence of forgery and cheating was committed by executing disputed registered document., However, the present accused no.6 is one of the purchaser of the disputed property. Therefore, he must have knowledge about the offence. Such possibility cannot be ruled out. In view of the judgment relied by accused no.6. There is only requirement that full and true disclosure of the information and circumstances related to the offence. Considering the possibility of disclosure of the information about the crime and all the facts and circumstances. I am of the view that, permission ought to be granted to accused no.6 who permitted to become approver and accomplice in the present crime. Needless to say such disclosure of circumstances subject to the Section 306 and 308 of Cr.P.C. Hence, I proceed to pass following order:-

ORDER

- 1] Application Exh.54 is allowed.
- 2] Accused no.6 shall disclose all true and full information and circumstances within his knowledge related to the present crime.

- 3] The prosecution is permitted to examine accused no.6 as a witness vide Section 306 (4) (a) of Cr.P.C.
- 4] The prosecution is entitled to certify that whether accused has made full and true disclosure of commission of offence within his knowledge vide Section 308 (1) of Cr. P. C.
- 5] The accused no.6 is also entitled to raise a plea vide Section 308 (3) of Cr.P.C.
- 6] The question of tender of pardon will be decided after final hearing on plea of tender pardon.

Parseoni.
Date:24/01/2023

(O.J. Kulkarni)
Judicial Magistrate F.C.,
Parseoni.

R.C.C. No. 43/2016
St/Ramakant.

ORDER BELOW EXH.1

(Dated 10/06/2016)

1) Today Investigation Officer Shri. Gulab Singh NPC B.No 1504 present in person before the Court. He filed explanation vide Exh. 04. I gone through the explanation Exh. 04. It is contented that he had arrested accused person on 28/03/2007 and released them on bail on the same day. He also contended that the accused Ramakant Ramgopal Rajgire signed on bond as Rajgire and accused Pintu signed on bond as Pintu Yadav. He further contended that on arrest form of accused also mention surname of accused as Rajgire. He further contended that accused comes from the community of Yadav. Hence, they are known in the community as the name of Yadav. Lastly, he contended that the alias name of the accused Rajgire is not mentioned in final report due to inadvertencely and contended that Yadav and Rajgire is the same surname of accused person.

2) I personally heard Investigation Officer Gulab Singh. He submitted that he investigated the crime No. 3011/2007. During the investigation he released the accused on bail because offence areailable and he accept the surety from the accused person. He also submitted that due to inadvertencely not mention the alias name of the accused Rajgire in the final report.

3) On previous date i.e on 19/05/2016 I have passed the detailed

order about the facts of the case. Considering the contention and submission of the Investigation Officer Gulab Singh I am of the opinion that this mistake is not intentional. If warrants issued to the name of Yadav alias Rajgire is not caused injustice to the accused person.

4) In this case Non Bailable Warrant issued against accused many times but it returns as mention the surname of accused is not Yadav. If Yadav and Rajgire surname of accused person are same then there is no prejudice to accused person if Bailable Warrant issued against the accused person. Hence, I pass the following order.

ORDER

Issue Bailable Warrant of Rs. 5,000/- in the name of Ramakant Ramgopal Yadav alias Rajgire and Pintu Ramgopal Yadav alias Rajgire.

Parseoni.
Date. 10/06/2016.

(S.D. Wankhede)
Judicial Magistrate F.C,
Parseoni.