

ORDER BELOW EXH. 22

This application is filed by informant through learned APP under section 319 of the Criminal Procedure Code to add Shri. Hariba @ Haridas Kisan Mandhare and Dattatrey Kaluram Mandhare as accused.

2. It is the contention of informant that in first information report, it has been mentioned that in Gat no. 75, the informant and his family were present, the accused Kerba Kisan Mandhare, Digamber Kisan Mandhare, Hariba @ Haridas Kisan Mandhare, Dattatrey Kaluram Mandhare and Prabhawati Haridas Mandhare were digging a hole on common road. However, the investigating officer arrested only accused nos. 1 to 3. He has not made investigation of above mentioned two accused persons. Hence, prayed to add the above mentioned persons as accused in the offence.

3. The accused persons have filed their say at Exh. 26 and denied the contents in application. They contended that the informant in present case assaulted and beaten the accused persons. Hence, Haridas Kisan Mandhare has filed complaint against the informant and others. The informant has filed this application after thought. The informant has not stated what criminal act done by Hariba Mandhare and Dattatrey Mandhare. Moreover, during investigation no evidence collected by the investigating officer about the same. The witnesses do not state against the above mentioned persons. The application is false. Hence, prayed to reject the application.

4. Heard argument of both sides.

5. Perused FIR and documents produced on record by investigating officer. On perusal of FIR, it clears that the informant averred that Keraba Kisan Mandhare, Digamber Kisan Mandhare, Hariba Kisan Mandhare, Dattarey Kaluram Mandhare, Prabhawati Haridas Mandhare, were digging a hole on common road in Gat no. 75. However, in FIR there are no contention of assault by Hariba @ Haridas Kisan Mandhare and Dattatrey Kaluram Mandhare. It clears that the incident occurred after looking them by the informant. The FIR does not disclosed role of above mentioned persons in commission of offence. Mere being present on the spot as stated by informant in FIR does not attract commission of offence against these two persons. The informant does not state whether they were in collusion with present accused persons, or they assaulted him or they abused him or threatened him etc. Therefore, there is no contention by the informant, what offence these two persons committed against him.

6. A person can be said to commit offence, if the act or thing made punishable by law. Considering the documents and material produced on record, it clears that there is no material to proceed against above mentioned persons. As without any allegations of criminal act against persons, cannot be made party. There are no grounds to add them as accused. The final report has been filed after investigation as per FIR. During investigation neither informant nor the witnesses uttered about role of these two persons. After thought applications may be filed, but prior statement of informant and

witnesses are important to be considered to conclude about the application. In the result, I pass following order.

ORDER

The application at Exh. 22 is hereby rejected.

Sd/-xx

(Mrs. S. K. Deshmukh)
J.M.F.C. Saswad

Date : 29/11/2025