

MHRT040005822016**Order below exh.182 in Sessions Case No.44/2016**

The State of Maharashtra

Prosecution

Vs.

Alim Hamajaminy Sahibole etc.19

Accused

1. The application for cancellation of bail of the accused by the informant. The informant submitted that the present sessions case is u/s 397, 452, 149, 427, 504, 506 of IPC. The accused No.2 Hidayat Usman Sahibole while pending this case is threatening informant and her sister. He is threatening informant and her sister so that they shall not depose against him in the Court. On 01-06-2024 at about 02.00 p.m. when the informant and her sister were sitting in their house accused No.2 was doing the work of plucking coconut from coconut trees in his land. At that time accused No.2 purposely thrown weast of coconut tree in the property of informant. When she asked the accused about it the accused abused her रांडे तुला काय करायचे ते कर मी जमातुल मुस्लीमीनचा अध्यक्ष आहे, मला काही होणार नाही. मला असा त्रास दिलास तर मी तुला घरात येवून ठार मारीन and threatned her. On 06-06-2024 the applicant lodged FIR with Dabhol Sagari Police Station. But police did not take action. The applicant moved application before Superintendent of Police, Ratnagiri on 26-06-2024 and filed this application. No action was taken by the police against the accused No.2. It is prayed to cancel his bail bond.

2. The accused No.2 resisted the application by filing say at

Exh.191. It is contended that the police did not take action against the accused No.2 because there was no truth in the FIR made by the informant. In the investigation it was found that false case was registered against the accused. Vishal Kambale has given statement to that effect before the police. He was the labour for taking out coconut from the trees. The informant has habit to harass by giving false complaint. She is not giving evidence in support of her complaint. She has purposely avoided to take report. The police has filed the complaint made by the informant. The application is filed with ill motive and be rejected.

3. Heard.

4. In this particular case the charge was framed on 14-12-2016. Since then the case is pending for evidence of the prosecution. The prosecution started evidence by examining PW.1 informant Shagupta Umar Sahibole at Exh.105 on 11-10-2017. Deposition of the informant is not yet completed. The case is pending for more than 8 years.

5. The accused No.2 has filed on record report of police constbale 1528 Dhopat of Dabhol Sagari Police Station that at the time of inquiry there was no evidence. The applicant was neglecting to take notice. The application is filed by the informant to cancel the bail application of the accused with ill motive. The accused has produced video recording and as per the video recording no such incident as alleged took place. It appears that the relation between the accused and the informant is not cordial since long and the

informant has made complaints against the accused. However the remarks made by the police constable while disposing of the complaint of the informant shall not be taken into consideration while deciding this case on merit.

6. Though the alleged incident dated 01-06-2024 presumed to be true it can be said that there was quarrel between the accused and the applicant due to the waste thrown by the accused in her land. The incident does not appear to be done purposely to pressurize the applicant and her sister or threaten them to preclude them from giving evidence before the Court. The Court has discretion to cancel the bail if the situation demands.

7. The informant should have shown that the accused is interfering in the course of justice. Unless there are very cogent and overwhelming circumstances the bail shall not be cancelled. It must be noted that if an accused threatened the complainant subsequent to his release on bail, the bail would be liable to be cancelled. However in this particular case according to the report of Investigating agency from the documents filed by the accused there is no substance in the allegation made by the informant. May it be as it is. The accused shall abide by the conditions of the bail and shall not give threats to the informant or her sister. Therefore I pass following order.

Order

Application is rejected.

Date-04-12-2024

(P.S.Chandgude)
Addl.Sessions Judge, Khed.

Certificate

I affirm that the contents of this pdf file order are same word as per original order.

Name of Stenographer : Mrs.V.S.Kulkarni

Court Name : Shri.PS.Chandgude, Additional Sessions Judge, Khed.

Date of Decision : 04-12-2024.

Order Signed by P.O. on : 04-12-2024.

Order Digitally Signed by P.O. on : 04-12-2024.

Order uploaded on : 04-12-2024.