



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

925 CRIMINAL WRIT PETITION NO. 1140 OF 2024

1. Vasant S/o Pandharinath Parsewar
 2. Shaikh Babar S/o Shaikh Umar
 3. Shridhar S/o Nagnath Bokan
- ... Petitioners

VERSUS

1. The State of Maharashtra
 2. Megha W/o Pravin Malewar
- ... Respondents

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Mr. Phad Avinash A, Advocate for the Petitioners
Mr. N. D. Raje, APP for Respondent No.1 - State

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CORAM : NEERAJ P. DHOTE, J.

DATE : 17.06.2026

PER COURT :

1. Heard the learned Advocate for the Petitioners and the learned APP for Respondent No.1 – State.

2. None for Respondent No.2.

3. The order dated 16.01.2025 shows that, genuine attempt to serve Respondent No.2 was made and she was not responding to the police. Therefore, there was no hurdle in proceeding with the matter.

4. This Petition is for quashing FIR No.34/2022, registered with Parli City Police Station, Beed for the offence punishable under Sections 306 read with Section 34 of the Indian Penal Code, 1860

(hereinafter referred to as 'IPC') and Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014 and consequential charge-sheet bearing RCC No.279/2022 pending before the learned Judicial Magistrate, First Class, Parli.

5. The aforesaid crime and criminal proceedings arise out of the report lodged by Respondent No.2, who is the widow of Deceased – Pravin Malewar, who committed suicide. It is the case of Prosecution that, the Informant was residing with the deceased – husband and children. The deceased – husband was running the business at Parli. In the year 2013, the deceased had purchased a house but due to indebtedness, it was required to be sold. The deceased was constantly under pressure as he was unable to repay the loan despite selling the house. On 17.02.2022, the deceased was under depression and he scribed a note stating the names of the creditors, their mobile numbers and outstanding amount. According to the Informant, the creditors mentioned in the note, were harassing the deceased, despite repayment with the interest. The deceased was found hanging in the shop on 18.02.2022. The Applicants are amongst them, who alleged to have harassed the deceased for repayment of loan.

6. The learned Advocate for the Petitioners submits that, the aforesaid crime was registered against in all sixteen (16) persons and charge-sheet came to be submitted against fourteen (14) persons. Some of the FIR named accused, namely, Subhash Munde, Shrikrushna Bhange, Prakash Chidrewar, Vishnu Munde and Shamrao Katkade had approached this Court in Writ Petition

Nos.3522/2022, 557/2023, 603/2023, 604/2023 and 729/2023, respectively. The Division Bench of this Court, by order dated 30.04.2024, quashed the FIR and consequential criminal proceedings against the said Petitioners. He submits that, the Applicants are similarly placed as that of the said Co-accused, against whom the proceedings are quashed, and therefore are entitled for the same relief.

7. It is submitted by the learned APP that, names of the Petitioners are reflected in the note scribed by the deceased. The deceased had borrowed the money from the FIR named accused persons and they were demanding the same despite the deceased had made repayment. He submits that, the Petition be dismissed. However, he does not dispute that, the aforesaid Co-accused approached this Court and this Court had quashed the criminal proceedings qua them.

8. Only material against the Applicants is that, their names are reflected in the note scribed by the deceased and the amount with percentage mentioned against their names. At the bottom of the said note, it is stated that, he was very much harassed. There is nothing to show that, a more severe role is attributed to the Petitioners than the role attributed to the said writ Petitioners, against whom the criminal proceedings are quashed. The Petitioners stand on the same footing as that of the said Petitioners, against whom the criminal proceedings are quashed. It would be profitable to reproduce the observations of the Division Bench in the aforesaid Writ Petition : -

“10. We have considered rival submissions of the parties and relevant papers of investigation. A note scribed by deceased which was handed over to informant shows that names of fifteen persons are mentioned with their mobile numbers with amounts and rate of interest. At the bottom of the list, it is scribed that deceased sustained harassment. We have carefully gone through FIR, supplementary statements of the informant and her brother. It transpires that deceased was indebted. He had borrowed money from the applicants and other persons. Applicants and others were insisting for repayment. Deceased was being harassed on telephone and by visiting his shop.

11. The note scribed by the deceased except mentioning names and the amount outstanding does not disclose the manner in which the harassment was caused. Similar is the case with the statement. What emerges is that the recorded during the investigation, applicants and others were demanding their outstanding and There is nothing on record to indicate that persisting for the same all the applicants conspired together and with common intention subjected the deceased to such a torture to drive him to commit suicide. The magnitude of the harassment is not of such a nature so as to leave no alternative to the deceased but to commit suicide. We find no material which satisfies parameters of Section 107 of IPC.

12. Though it is mentioned in FIR that deceased had repaid outstandings with interest, no material is collected during investigation to support this allegation. Some endeavour should have been made by informant or witnesses to indicate repayment. In all probability the deceased would not have sustained the claims of the accused.

13. FIR. and supplementary statement of the informant disclose that she was not even knowing few creditors like Mrs. Aghav, Mrs. Agarwal. We have gone through letter dated 08.03.2022 addressed by the Assistant Registrar to the Investigating Officer stating that no complaint was received against the applicants for having undertaken money lending transaction against the applicants and others. The material on record does not indicate multiple money lending transaction with individual applicants. At the most it can be said to be isolated instance of money lending. We are of the considered opinion that it does not fall within the purview of Section 39 of the Maharashtra Money Lending Act.

14 . Learned Counsel for the applicants has rightly referred to judgment in the matter of Mandubai Vitthoba Pawar (supra) Relevant paragraph nos. 11 and 12 are as follows:

“11. The above discussion makes it clear that for it to be a business there has to be a continuous and systematic activity by application of labour or skill with a view of

earning income when it could be called "business". In order to do business of money lending, it would be necessary for the State to point out multiple activities of money lending done by the petitioner. Merely referring to one isolated transaction claimed to be a loan transaction or money lending would not be enough to show that the petitioner was involved in "business of money lending" without licence. The FIR in the present matter read as a whole does not spell out that the petitioner was doing "business of money lending". This being so, on the basis of such FIR the prosecution cannot be maintained"

12. We have gone through the various documents put on record by the petitioner as well as the respondents. There are not even vague allegations, apart from the present transaction of 1982, that petitioner was advancing loans to people and getting properties transferred. This is apart from the fact that it would be necessary for the FIR itself to spell out in clear terms the transactions which would prima facie show that business as such of money lending was being involved into without there being a valid licence."

15. Learned Counsel for the applicants have referred to judgment in the matter of Netai Dutta (supra) to buttress that mere mentioning names of accused in the suicide note would not be sufficient, in the absence of any specific act or incident. We follow the ratio. We have considered judgment of the Supreme Court in the matter of Amalendu Pal alias Jhantu (supra). We follow ratio laid down in paragraph no. 12 which is as follows:

"12. At the outset, we intend to address the issue regarding the applicability of Section 306 IPC in the facts of the present case. Section 306 deals with abetment of suicide and Section 107 deals with abetment of a thing. They read as follows:

306. Abetment of suicide-If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

16. Further reliance is placed on judgment rendered in Jitendra Mohan Gupta (supra). We are in agreement with a view taken in that matter. Paragraph no.6 is as follows:

"6. We have carefully gone through the charge-sheet and the suicide note. A bare perusal of the suicide note reveals that the debt which the petitioner owed to the deceased was only one of the three reasons which had put the deceased under stress. It is necessary to remember that abetment involves a

mental process of instigating or intentionally aiding a person to do a thing. Each person has his own ideas of self-esteem and self-respect. Merely because a person is unable to bear the stress, one cannot jump to the conclusion that the act or the circumstance which causes the stress is a situation created with an intention that the deceased should commit suicide."

17. Learned APP refers to judgment of Didigam Bikshapathi (supra) to buttress that the suicide note refers to act of harassment and name of the applicants/petitioners so as to make out a case for offence under Section 306 of IPC. We have considered relevant facts of that case. There, the suicide note referred to the background in which the victim took extreme step of committing suicide and roles played by the accused persons. In the present matter, note is silent regarding role played by the applicants/petitioners as well as extent of harassment. The judgment is distinguishable and cannot be made applicable."

9. In view of the above aspects of the matter, the Petitioners are entitled for the same relief. Hence, the following order :

ORDER

[I] The Writ Petition is allowed to the extent of the Petitioners in terms of Prayer Clauses – (B) and 12(BB).

[NEERAJ P. DHOTE, J.]