

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**CRIMINAL WRIT PETITION NO. 154 OF 2014**

Ashok S/o Phula Bhadane  
Age : 43 Years, Occu. : Service,  
R/o Kawathi, Tq. & Dist. Dhule.

...Petitioner

**Versus**

- 1] The State of Maharashtra,  
Through Senior P.S.I.,  
Police Station Songir,  
Tq & Dist. Dhule.
- 2] Ganesh S/o Pandit Patil,  
Age : 35 Years, Occu. : Agril.,  
R/o Kawathi, Tq. & Dist. Dhule.

...Respondents

...

Mr. P. S. Paranjape, Advocate for the petitioner.  
Mr. S.G. Nandedkar, APP for Respondent/State.  
Mr. K.C. Sant, Advocate for Respondent No.2.

**CORAM : S.S. SHINDE &  
A.M. BADAR, JJ.**

**DATE OF RESERVING THE ORDER : 6TH JANUARY, 2015.  
DATE OF PRONOUNCEMENT OF ORDER : 30TH JANUARY, 2015.**

**ORDER : [ PER A.M. BADAR, J.] :**

- 1] By this petition, petitioner/accused in Crime No. 80 of 2013, for the offences punishable under Sections 306, 384 r/w. 34 of IPC, registered at Songir Police station, District Dhule, on the basis of

FIR lodged by Ganesh Pandit Patil, has initially prayed for quashing and setting aside the FIR. As during the pendency of the instant petition, on completion of investigation, charge sheet came to be filed, the petitioner thereafter amended the petition as well as prayer clause and has further prayed for discharge of the petitioner.

2] Facts in brief are thus :-

[a] The Petitioner as well as Ganesh Pandit Patil at whose instance crime No. 80 of 2013 for the offence punishable under sections 306, 384 r/w 34 of IPC came to be registered against the petitioner as well as others, are residents of village Kawathi, Taluka and District Dhule. The incident which allegedly resulted in registration of this crime is preceded by another incident of registration of crime for the offence punishable under sections 302, 143, 147, 323, 504 of IPC and under relevant sections of the SC and ST (Prevention of Atrocities) Act, 1989 against relatives of informant Ganesh Patil at the instance of Arunabai Budha Bhadane, who happens to be the relative of present petitioner.

3] The chronology of incident is thus :-

On 24.10.2013, Arunabai Bhadane lodged a report at Songir Police Station alleging that on 23.10.2013, in her presence, 22 to 25

persons residing at her village including Gulab Chintaman Patil, Dashrath Chintaman Patil, and Phula Chintaman Patil assaulted her husband - Budha Bhadane and then abducted him. She further reported that on 24.10.2013 dead body of her husband Budha Bhadane was found near the field of Somnath Kakade. This report has resulted in registration of crime No. I-78 of 2013, for the offence punishable under sections 302, 384 r/w 34 of IPC and other penal provisions of the SC and ST (Prevention of Atrocities) Act, 1989. Three of accused, namely, Gulab Chintaman Patil, and Phula Patil, are stated to be sons of Chintaman Dhanaji Patil.

4] Subsequently, on 28.10.2013, dead body of Chintaman Dhanaji Patil was found floating in percolation tank. Because of this incident, Ganesh Pandit Patil, nephew of Chintaman lodged a report alleging that from 25.10.2013 to 27.10.2013 present petitioner Ashok Bhadane alongwith other persons were constantly contacting Chintaman Dhanaji Patil and they were harassing him with a view to coerce him to meet their demand of Rs. 5 Lakhs. This harassment by petitioner Ashok Bhadane and others has resulted in commission of suicide by Chintaman Dhanaji Patil. Accordingly crime No. 80 of 2013 for the offence punishable under sections 306, 384 r/w. 34 of IPC came to be registered against the petitioner and others.

5]           The Petitioner has prayed for quashing the FIR in this case but as with passage of time the charge sheet also came to be filed against the petitioner and others. Now therefore, the prayer is to discharge the petitioner.

6]           Heard learned counsel for the petitioner and perused written notes of arguments submitted by him. According to learned counsel for the petitioner alleged act of the petitioner cannot be termed as abetment under Section 107 of IPC and, therefore, Section 306 of IPC is not attracted in the instant case, He further argued that for establishing the offence of extortion punishable under section 384 of IPC, it has to be established that by putting a person in fear of injury, there must be dishonest inducement to him to deliver property or valuable security. According to learned counsel in the case in hand, there is nothing to demonstrate that fear of injury was created in the mind of deceased Chintaman Patil nor he was required to part with any property or valuable security. According to the petitioner, report of histo-pathology demonstrates that death of deceased Chintaman is due to drowning and intoxication. As such, there are no sufficient ground to proceed against the petitioner and continuation of proceedings against him, is nothing but an abuse of process of law. The petitioner

placed reliance on the judgment in the matter of “***State of Haryana & Ors. Vs. Bhajan Lal & Ors.***” reported in ***1992 Supp (1) SCC 335***.

7] On behalf of respondent No.2/informant, it was argued that perusal of the charge sheet shows that there is sufficient material to frame the charge against the petitioner and the offence registered against him and others is serious. It was further argued that sufficiency and veracity of material is required to be judged by the trial court and questions of quashing the charge sheet or discharge does not arise.

8] The learned APP also opposed the petition.

9] With the assistance of learned counsel appearing for the parties, we have perused the charge sheet. The Charge sheet is filed on completion of investigation of crime No. 80 of 2013 registered against the petitioner and others. It is seen from the charge sheet that upon conducting the post mortem examination as well as on consideration of report of histo-pathology and the Diatom Test, the Assistant Professor of Forensic Department of Government Medical College, Dhule, came to the conclusion that Chintaman Dhanaji Patil died due to drowning with alcohol intoxication.

10] During the course of investigation, the Investigating Officer has recorded statement of several witnesses including relatives and neighbourers of deceased Chintaman Dhanaji Patil. Some of them are Ashabai Chintaman Patil, Jivaji Dharma Patil, Kiran Ankush Patil, Rohidas @ Nana Dungal Patil, Shantaram Ramdas Patil, Sahebrao Tumdu Borse etc. From the papers of investigation, it is clear that 3 sons of deceased Chintaman Dhanaji Patil , namely, Gulaba, Dashrath and Phula came to be arrested on the basis of FIR lodged by Arunabai Phula Bhadane vide crime No. 78 of 2013 with an allegation that they alongwith others had committed murder of her husband,namely, Phula Bhadane on or about 23/24.10.2013. From the papers of investigation, it is seen that all these 3 sons of deceased Chintaman Dhanaji Patil came to be arrested during investigation of said crime No. 78 of 2013 and were lodged in prison.

11] On this factual backdrop, it is in statement of witnesses who are named in foregoing paras, that they had seen present petitioner Ashok Phula Bhadane, alongwith Samadhan Budha Bhadane, Shantilal Ragho Bhadane, Bhagwan Wakra Bhadane, Rajendra Phula Bhadane as well as several others contacting and visiting Chintaman Dhanaji Patil (since deceased) continuously. Statements of witnesses

are depicting that several activists including present petitioner were constantly coming to Chintaman Dhanaji Patil since last 3/4 days. The witnesses have also narrated utterances of Chintaman Dhanaji Patil to the effect that present petitioner and his associates were demanding an amount of Rs. 5 Lakhs from deceased Chintaman Dhanaji Patil. Witnesses have further disclosed that present petitioner and his associates were giving threats to Chintaman Dhanaji Patil that if amount as demanded is not paid, then, his sons will not be saved and they will remain in jail. In this way, the witnesses have stated that deceased Chintaman Dhanaji Patil was disclosing them that the petitioner and his associates were attempting to extort an amount of Rs. 5 Lakhs from him, causing serious mental stress to him. This alleged coercing by the petitioner and his associates was then followed by the incident of finding the dead body of said deceased Chintaman Dhanaji Patil in percolation tank. Opinion of Medical Expert is that his death is due to drowning. Accordingly, on investigation, charge sheet came to be filed against the petitioner for the offence punishable under sections 306, 384 r/w. 34 of IPC.

12] Statements of witnesses prima facie shows that deceased Chintaman Dhanaji Patil was constantly harassed immediately preceding to his death by the petitioner and his associates for meeting

their demand of Rs. 5 Lakhs, which was coupled with threat that on failure, his 3 sons would continue to remain in jail for alleged offence of murder of Budha Phula Bhadane. Section 107 of IPC defined the term “abetment”. It includes inducement, assistance, encouragement or prompting another to commit an offence. Stimulating some one into action and provoking such person by instigating him to commit an offence also amounts to abetment. In the instant case, witnesses are attributing positive act on the part of the petitioner and his associates of instigating deceased Chintaman Dhanaji Patil to commit suicide by constantly coercing him by their demand of Rs. 5 Lakhs under the treat that on failure his 3 sons would remain behind bars. The witnesses have named in all 12 persons including the petitioner apart from other activists, who used to coerce deceased Chintaman Dhanaji Patil by demand of money on account of death of Budha Phula Bhadane. Prima facie, it appears that commission of suicide by deceased Chintaman Dhanaji Patil is direct result of continuous harassment by the petitioner alongwith others. True it is that the offence of abetment requires mens-rea, but, prima facie, the conduct of the petitioner and his associates demonstrates necessary mens-rea inasmuch as by this conduct they pushed deceased Chintaman Dhanaji Patil to take extreme step of self-effacement.

13] Charge sheet also alleges the offence punishable under sections 384 of IPC against the petitioner. In the case in hand, the petitioner and his associates, as per the prosecution case reflected from statements of witnesses, were creating fear in the mind of deceased Chintaman Dhanaji Patil that unless and until he pays an amount of Rs. 5 Lakhs, his 3 sons would not be able to come out of jail. No doubt, deceased Chintaman Dhanaji Patil had not paid anything to petitioner or his associates in terms of their demand, still, statement of witnesses makes it clear that the petitioner and his associates were putting deceased Chintaman Dhanaji Patil in fear of continuation of detention of his three sons. The petitioner and his associates were prima facie inducing deceased Chintaman Dhanaji Patil to part with money. Terror of criminal charge certainly amounts to fear of injury. Thus, clearly there was an attempt to extort huge amount from the deceased Chintaman Dhanaji Patil under the terror of criminal charge.

14] In the wake of this material on record, reflected from the charge sheet, it cannot be said that there is no sufficient ground for proceeding against the petitioner and, therefore, he is entitled for discharge. The case of petitioner is not falling in any of the guidelines given in the matter of “Bhajanlal” (supra). As such, it cannot be said

that criminal proceedings pending against petitioner are amounting to abuse of process of any court. Therefore, the petition is devoid of merit and as such, is dismissed.

**[A.M. BADAR]**  
**JUDGE**

**[S.S. SHINDE]**  
**JUDGE.**

grt/-