

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

**CRIMINAL APPLICATION NO. 1252 OF 2013**

State of Maharashtra

...Applicant

versus

Mukesh Sudhakar Gawade

...Respondent

.....

Smt. S.D. Shelke, Addl. Public Prosecutor for Applicant  
Mr. S.S. Wagh, Advocate holding for  
Mr. S.T. Shelke, Advocate for respondent No. 1

.....

**CORAM : A.I.S. CHEEMA, J.**

**DATED : 19<sup>th</sup> JANUARY, 2015**

**Order :-**

1. Heard learned Additional Public Prosecutor for the State and learned counsel for respondent-accused. Perused the record.

2. Learned Additional Public Prosecutor has taken me through the suicide note of deceased Annasaheb Rahane and has also referred to the evidence on record and submits that present accused and others have harassed the deceased for money and because of this deceased Annasaheb committed suicide.

3. Learned counsel for respondent-accused submitted that alleged suicide note refers not only name of present accused but also other money lenders. It has been argued that the deceased was under depression and he was heavily indebted to various persons and because of mental stress he appears to have committed suicide, for which respondent-accused cannot be held responsible. Learned counsel for respondent-accused submitted that reasonings recorded by the trial court are sound and thus the application may be rejected.

4. Perusal of the record shows that deceased Annasaheb was indebted to various persons. The trial Court has considered the evidence on this count. The trial court also noticed that the deceased was contemplating to commit suicide for various days, as can be seen from the suicide note Exhibit-31. The trial court also discussed the fact that the vehicle of deceased was taken away by Hotel Manager where the deceased Annasaheb was residing at the time of his death. The reasonings recorded by the trial court are on the basis of record available and, the trial court has considered the various aspects and found no proximity

between time of committing suicide by Annasaheb and demand made by the respondent-accused and so nexus was not established. The trial court also considered the delay of 15 days in filing the complaint.

5. It would be necessary for the prosecution to prove the actual abetment by the accused person to the deceased to commit suicide. Only because accused asked for money can be no reason to conclude that he abetted suicide. If the debtor dies, accused would rather not be able to recover his money. No *mens rea* is established. The evidence, as has been brought does not appear to be sufficient to conclude abetment.

6. The view taken by the trial Court is possible view on the basis of the evidence available and once the acquittal is recorded, it will not be appropriate to interfere.

7. There is no substance in the Application. The Criminal Application stands rejected.

**( A.I.S. CHEEMA, J. )**

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