

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

CRIMINAL APPLICATION NO.1279 OF 2015

Sudhakar s/o Yashvantrao Kulkarni,
Age 62 years, Occ. Pensioner,
R/o Yamuney, Patangan Galli,
Behind Old Tahsil Office,
Beed, District Beed.

... APPLICANT

VERSUS

1. The State of Maharashtra
through Police Station, Neknoor,
Taluka and District Beed.
(Copy to be served on P.P.,
High Court of Bombay,
Bench at Aurangabad)

2. Sangita Janardhan Shinde,
Age 42 years, Occ. Household,
R/o Ambikanagar, Beed.

... RESPONDENTS

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Shri R.D. Sanap, Advocate for applicant
Shri B.L. Dhas, A.P.P. for respondent No.1/State
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W I T H

CRIMINAL APPLICATION NO.2483 OF 2015

Anil s/o Suryakant Charate
Age 42 years, Occu. Agri.,
R/o Palwan Road, Beed,
Taluka and District Beed

... APPLICANT

VERSUS

1. The State of Maharashtra
through Neknoor Police Station, Neknoor,
Taluka and District Beed.
(Copy to be served on P.P.,
High Court of Bombay,
Bench at Aurangabad)
2. Sangita Janardhan Shinde,
Age 42 years, Occ. Household,
R/o Ambikanagar, Beed. ... RESPONDENTS

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Shri S.R. Shirsat, Advocate for applicant
Shri B.L. Dhas, A.P.P. for respondent No.1/State
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CORAM: S.S. SHINDE AND
 A.I.S. CHEEMA, JJ.

DATED: 6th August, 2015.

Date of reserving Judgment : 29/7/2015
Date of pronouncing Judgment : 6/8/2015

JUDGMENT (Per A.I.S. Cheema, J.)

1. These applications arise out of Crime No.79/2012,
dated 8.7.2012, registered at Neknoor Police Station, District
Beed under Section 306 read with Section 34 of the Indian
Penal Code and Section 32(b) of the Bombay Money Lenders

Act. The police have filed Charge Sheet No.119/2014 and the matter has been committed to the Court of Sessions as Sessions Case No.50/2015 before the Sessions Court-3, Beed.

2. The applicant Sudhakar Yashvantrao Kulkarni is arrayed as accused No.6 and applicant Anil Suryakant Charate has been arrayed as accused No.5 in the Charge Sheet.

3. The respondent No.2 served, remained absent.

4. In this matter, the F.I.R. was filed by Sangita Janardhan Shinde, wife of deceased Janardhan Shinde, against 15 persons. The F.I.R. claims that, the deceased was running a Hari Mauli Balak Ashram for which earlier there was Government grant, but subsequently, the grant was stopped. The deceased, however, wanted to continue with the Balak Ashram and raised money by selling his property and later on, even took hand loans from private money lenders (*Khajgi Savkar*). She claimed that, as the loan amount increased and also day-to-day expenses went on increasing, it became difficult to return the money and subsequently, there was

nobody even to lend money on the house. The deceased had become sad. The people, who had lent money were asking for return of the same and even insulted the deceased. Subsequently, on 3.7.2012, Janardhan Shinde had gone out of the house and later on it was learnt that he had consumed poison and committed suicide. Thus, the private money lenders were responsible for the death as they were constantly asking back their money with interest and insulted the deceased.

5. The counsel for the applicants submits that, in this matter, after the F.I.R. was registered, out of the 15 persons who were arrayed as accused in the F.I.R., 7 persons had approached this Court and the F.I.R. came to be quashed against these 7 persons vide orders in Criminal Application Nos.3683/2012, 5703/2012, 5481/2012, 545/2013, 566/2013 and 1047/2013. The High Court quashed the F.I.R. regarding those applicants. The case of the present applicants is similar to those for whom the F.I.R. was quashed. According to the counsel for applicants, although now charge sheet has been filed, there is no additional evidence found by the prosecution

and the statements are similar to the contentions as raised in the F.I.R. regarding these applicants. The applicants claim that, their cases are similar to those for whom the F.I.R. was quashed and thus, the matter for them also deserves to be quashed.

6. The learned A.P.P. for the State submitted that, these applicants had lent money to the deceased Janardhan Shinde and were harassing the deceased to give back the money and because of the harassment, Janardhan committed suicide. The police has collected material and the trial should be allowed to proceed for these applicants.

7. We have heard counsel for both sides. The learned A.P.P. was unable to show from the charge sheet any material showing that the case of present applicants is different from the other accused for whom the F.I.R. was quashed by earlier orders of this Court. The A.P.P. was unable to show any specific acts or incidents attributed to these applicants in the F.I.R. or in the statements on the basis of which it could be shown that these applicants abetted the committing of suicide

or any details prima facie showing that these applicants were indulging in money lending as a business. We find that there is no case made out constituting offence of abetment under Section 306 of the Indian Penal Code. It appears that, deceased Janardhan took money on loan from various persons and brought misery to himself when the various persons started asking him to give back their money. There is no specific material against present applicants that they had goaded, pestered, provoked, incited or encouraged deceased to commit suicide. In fact if Janardhan committed suicide, rather the applicants stand to lose money. Merely because a person has lent money and reminds the borrower to return it by that itself it cannot be said that the person is abetting suicide. Even if it is said that lender insulted the deceased for not returning the money, that by itself cannot be construed as abetment. F.I.R. does not say any incident involving these applicants took place on 3.7.2012 when deceased left home or till 4.7.2012 when he was found after consuming poisonous substance. Minute examination of material in charge-sheet does not spell out offence as claimed against these applicants.

8. Thus, we find that letting the matter proceed as against the present applicants would amount to abuse of process.

9. For the above reasons, the applications are allowed. Criminal proceedings, Sessions Case No.50/2015, Charge Sheet No.119/2014 arising out of Crime No.79/2012 of Police Station, Neknoor under Section 306 read with Section 34 of the Indian Penal Code and 32-B of the Bombay Money Lenders Act is quashed and set aside as far as regards present applicants are concerned.

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

(S.S. SHINDE, J.)