

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4362 OF 2015

MAHESH S/O SHASHIKANT JAPE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. R. S. Deshmukh h/f Mr. M. D. Narwadkar

APP for Respondent/State : Mr. M. M. Nerlikar

Advocate for respondent No. 2 : Mr. A. M. Gaikwad

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 11th DECEMBER, 2015

P.C. :-

1. The present application is filed for quashing of charge sheet dated 08.12.2014, submitted pursuant to F.I.R. No. 60/2014 dated 27.03.2014 registered with Police Station, Udgir, District Latur, for the offence punishable under Section 306 r/w 34 of Indian Penal Code.

2. Mr. Deshmukh, leaned counsel for applicants, submits that the applicants are employees working with ICICI Bank Ltd. The deceased, who had committed suicide, was also an employee of ICICI Bank Ltd. He was a Sales Officer in the branch of ICICI Bank located at Udgir. The deceased left suicide note containing 13 pages. The averments in the said suicide note are with regard to procedural lapses which took place at the time of opening bank

accounts and action is not taken against erring employees such as the applicants. According to the learned counsel, complaint is filed on the ground that the applicants instigated the deceased for committing suicide. Learned counsel submits that even if all allegations made in the suicide note are taken as it is, no offence punishable under Section 306 as against the present applicants is made out. There is no specific abetment as contemplated under Section 107 of I.P.C. Learned counsel places reliance on following judgments of the Apex Court :

1. ***State of Kerala and Others vs. S. Unnikrishnan Nair and others***, reported in **2015 (9) SCC 639**,
2. ***Netai Dutta vs. State of West Bengal***, reported in **2005 (2) SCC 659** and
3. ***Madan Mohan Singh vs. State of Gujarat and Another***, reported in **2010 (8) SCC 628**,

so also, the judgment delivered by learned Single Judge of this Court in the case of ***Deepak Prabhakar Rao Chondekar vs. State of Maharashtra***, reported in **2012 (1) Bom.C.R.(Cri.) 211**.

According to the learned counsel, there is no case of prosecution that the applicants had played any part or any role in any conspiracy which ultimately instigated or resulted in commission of

suicide by the deceased.

3. Mr. Gaikwad, learned counsel for respondent No. 2-complainant, submits that it is a clear case of abetment of suicide. The deceased was harassed time and again. The deceased remained under persistent harassment from the applicants for a prolonged period of time. He was forced to do the work which others were required to do and the said employees were not working as per procedure. Though enquiry was conducted, no action was being taken. All these facts drove the deceased to take extreme steps. According to the learned counsel, the complaint discloses commission of offence and as such, need not be quashed. Learned counsel relies on the judgment of the Apex Court in the case of ***Praveen Pradhan vs. State of Uttranchal and Another***, reported in ***2012 (9) SCC 734***. Learned counsel further submits that this Court would exercise its jurisdiction under Section 482 of Criminal Procedure Code sparingly and this is not a case wherein the complaint and / or the charge sheet is required to be quashed.

4. The learned APP also submits that *prima facie*, FIR contains necessary ingredients for a triable case against the present applicants. Complaint is lodged by father of the deceased. Suicide note is self-explanatory. As such, the application be dismissed.

5. With the assistance of learned counsel for respective parties, we have gone through the complaint and the charge sheet. The whole case of prosecution is based upon the suicide note. The statements of other employees, recorded, do not support the complaint and the allegations about abetment on the part of applicants. As such, suicide note will play pivotal role in considering whether commission of offence as alleged against the applicants is made out.

6. It is trite that powers under Section 482 of the Code of Criminal Procedure to quash complaint and / or charge sheet is to be exercised sparingly and in exceptional cases. The complaint and / or charge sheet will have to be read as it is for considering the case for quashing of the complaint.

7. Perusing the averments of suicide note, it is manifest that the deceased was disturbed by the working of employees. The work which the other employees were required to do, was not being done by them. Bank accounts could not be opened without following Rules regarding KYC. Still, the said accounts were being opened and in-spite of the deceased telling the employees i.e. the applicants, they were not ready to abide by it. Though the deceased had tried to bring it to the notice of seniors, they did not pay any heed towards

the same. An enquiry was conducted and the deceased was assured that the employees, who would be found guilty, against them, necessary action would be taken. Though, after the enquiry was conducted, no action was taken. This is the purport of the suicide note. One of the allegations made is also that from 04.01.2014 to 18.01.2014, computer of the deceased was closed. As no action is taken against the erring employees, the enquiry report must have been tampered and because of this, the said employees would----- (blank space----- i.e. blank) The suicide note does not contain anything further.

8. It appears that there was fear in the mind of deceased that he had filed complaint and as no action is taken against the erring employees even after the enquiry, he would be troubled.

9. The Apex Court, in the case of **Madan Mohan** (*supra*), which was based on similar facts, has observed that merely because a person has a grudge against his superior officer and committed suicide on account of that grudge even honestly feeling that he was wronged, it would still not be a proper allegation for basing charge under Section 306 of I.P.C. It will still fall short of proper allegation.

10. Section 107 of I.P.C. defines abetment. A person abets doing

of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. Abetment may be instigation, conspiracy or intentional aid.

11. In the case of **State of Kerala** (supra), the deceased had committed suicide and left suicide note which reads as under :

“Rajan and Unnikrishanan (CBI TVPM) are responsible for my this situation. Nobody else has any role in this. They who compelled me to do everything and cheated me and put me in deep trouble. Advocate seekumar also has some role. CJM Shri Vijayan also put pressure on me. Nobody else has any role in this.”

The Apex Court, in the said case, has held that on a plain reading of the said suicide note, it is difficult to hold that there has been any abetment by the respondents. The note, except saying that the respondents compelled him to do everything and cheated him and put him in deep trouble, contains nothing else. The Apex Court, as such, confirmed the quashing of proceedings by the High Court.

12. The Apex Court, in the case of **Praveen Pradhan** relied by Mr. Gaikwad, learned counsel, has held that the suicide note contains

allegation that he was forced to work continuously for long duration in the factory. The said suicide note also contains following words:

"I am dying due to Praveen Pradhan. He has done too much atrocities. He is very cunning man. He always humiliated-exploited me all the time. He made me demoralised and made my self respect hurt too much.

He has hurted Mr. O.P.Agaral (KPGI) and Mr. CRK Gaur (Project Consultant). These persons also had to go before time due to him. He always hurts others feelings as he is a egoistic and cruel man.

I have been daily hurted my self respect. He is always scolding me. I have to die solely due to him.

I have told my feelings to Mr. Pavan and Mr. Raghu earlier. But his attitude do not change. He always scolded and demoralised me. Even in front of Amit (Jaymit) he insulted me. He said Anurag is a chutiya. as he is working for him and he doubted my dignity. I cant tolerate any way to my dignity.

He always forced me to resign. This can be verified from Mr. Minesh Dakwe (who is in Mahindra) that he forced me to resign. His attitude can be verified from other officers of factory. He is proving me faulty and incompetent after completing entire project work successfully..(Emphasis added)"

Considering the said suicide note, the Apex Court observed that, *“Such harassment, coupled with the utterance of words to the effect, that, had there been any other person in his place, he would have certainly committed suicide, is what makes the present case distinct...”*

13. In the present case, suicide note does not detail these aspects. It only makes grievance about improper working of employees without following proper procedure and no action being taken against those erring employees though enquiry was conducted and he had made complaint / given evidence, and as no action has been taken against the erring employees, those employees may.....(the rest is left blank). This shows that probably, he may have fear that as he had made complaint and in-spite of enquiry, no action was taken against them, they may do something. Thus, the suicide note, taken as it is, would not bring the case within the ambit and purview of abetment, as is held in the case of **State of Kerala** (supra).

14. Even the statements of other employees, recorded during investigation, do not support the prosecution case.

15. Considering the aforesaid aspects of the matter, the Criminal Application is allowed and disposed of.

16. The charge sheet dated 08.12.2014 and the proceedings in Sessions Case No. 08/2015, pending before the learned Additional Sessions Judge, Udgir, against the present applicants, stand quashed and set aside.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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