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

CRIMINAL REVISION APPLICATION NO. 170 OF 2015

Gajendra s/o Suryabhan Mane,
Age: 37 years, Occu: Agri.,
R/o. Kranti Nagar, Beed,
Tal. & Dist. Beed

..APPLICANT

VERSUS

The State of Maharashtra,
Through Neknoor Police Station,
Neknoor, Tal. & Dist. Beed

..RESPONDENT

Mr M. S. Karad, Advocate for applicant;
Ms R. P. Gaur, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 21st April, 2016

ORAL ORDER :

The applicant is an accused in Sessions Case No.50 of 2015 for offences punishable under section 306 read with section 34 of the Indian Penal Code and section 32 (b) of the Bombay Money Lenders Act.

2. The prosecution case against the present applicant is that, one Sangita w/o Janardhan Shinde lodged complaint on 8th July, 2012 at Neknoor police station alleging that the present applicant is one of the co-accused, who is alleged to have abetted suicide of her husband, namely, Janardhan Shinde (for short "deceased"). It is claimed that the deceased was running a Balakashram and was in need of money for administration of the same. He had taken hand loan from various persons for the said

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purpose and was unable to repay the same. The persons, i.e. the money lenders were harassing and humiliating him, which has prompted him to commit suicide.

3. After completion of investigation the charge-sheet is filed.

4. The applicant co-accused moved an application under section 227 of the Code of Criminal Procedure seeking discharge vide Exh.50. The said application came to be rejected by the learned Assistant Sessions Judge, Beed, by an order dated 4th July, 2015. As such, the present proceedings.

5. While trying to make out a case for discharge, learned Counsel appearing on behalf of the applicant would invite my attention to the contents of the first information report and submit that though the applicant is named as one of the co-accused in the first information report, there is hardly any material on record to connect him with the crime in question. He would submit that the alleged money lending transactions are not at all investigated into *qua* establishing sufficient evidence as against the present applicant about involvement in the crime in question. He would then submit that the provisions of section 306 of the Indian Penal Code cannot be attracted, as necessary ingredients thereof are not satisfied from the investigation/charge-sheet filed against the applicant. He would then invite attention of this Court to the order dated 26th October, 2015, passed by the Division Bench of this Court in Criminal Application No.4732 of

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2015, at the behest of Subhash Narayan Jawalkar Patil and similar other orders passed in favour of co-accused Tushar Mahadeorao Arsul, in Criminal Application No.3683 of 2012, decided on 26th November, 2012,; Criminal Application Nos.5703 of 2012 with Criminal Application No.5481 of 2012, Criminal Application Nos.545 of 2013, 1047 of 2013 and 566 of 2013.

6. According to the learned Counsel, this Court has already quashed the prosecution as against the co-accused who were similarly situated.

7. Learned Addl. Public Prosecutor opposed the application and sought rejection on the ground that there is enough material available on the record against the applicant.

8. I have perused the judgments and orders referred supra, which are placed on record from pages 99 to 112 of the paper-book.

9. It is then required to be noted that the Division Bench, in the factual matrix of the present case, has observed that the acts on the part of the accused to insult deceased Janardhan do not by itself constitute any abetment and as such, offence punishable under section 306 of the Indian Penal Code is not attracted in the present case. It is also required to be noted that the charge is yet to be framed as against the present applicant.

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10. Perusal of the investigation papers depicts that there is hardly any material, but for statements of the witnesses connecting the applicant with the crime in question, particularly an offence under the provisions of the Bombay Money Lenders Act.

11. In view thereof, in my opinion, the order refusing to discharge the applicant, passed on 4th July, 2015 by Assistant Sessions Judge, Beed, below Exh.50 in Sessions Case No.50 of 2015 is not sustainable and is set aside. It is ordered that application Exh.51 stands allowed. The applicant is discharged from Sessions Case No.50 of 2015.

Criminal Revision stands allowed in above terms.

(N.W. SAMBRE, J.)

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