

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

CRIMINAL APPLICATION NO. 1141 OF 2017

1. Pravin S/o. Ramdas Patil (Husband of the deceased-Priya),
Age : 27 years, Occupation – Service as Teacher,
R/o. Govt. Ashram School, Bijari,
Tal-Dhadgaon, District – Nandurbar.
2. Ramdas S/o. Bhagwan Patil, (Father of the Husband-Pravin),
Age : 50 years, Occupation – Agriculturist,
R/o. Virahit, Tal-Murtijapur, District-Akola.
3. Vanita W/o Ramdas Patil, (Mother of the Husband-Pravin),
Age : 45 years, Occupation – Housewife,
R/o. Virahit, Tal-Murtijapur, District-Akola.
4. Amit S/o. Ramdas Patil, (Brother of the Husband-Pravin),
Age : 26 years, Occupation – Agriculturist and private job
as Driver, R/o. Permanent Address Virahit, Tal – Murtijapur,
District-Akola, Presently R/o. Uran, Mumbai.
5. Sau. Priyanka W/o. Mahendra Khade,
(Sister of the Husband-Pravin),
Age : 24 years, Occupation – Education,
R/o. Nandkheda, Tal-Mangrulpeer, District-Washim.
6. Mahendra S/o. Madhukar Khade, (Brother-in-law of Husband
Pravin), (wrongly mentioned in FIR as Mahendra Sudhakar
Khade), Age: 30 years, Occupation-Agriculturist,

R/o. Nandkheda, Tal-Agriculturist,
District – Washim.

... Applicants

VERSUS

1. The State of Maharashtra,
Through the Police Inspector,
Dhadgaon Police Station,
Tal-Dhadgaon, District-Nandurbar.

2. Prakash S/o. Kisan Ingole,
(Father of the Deceased-Wife-Priya),
Age : 52 years, Occupation – Labour and
Elected member of Gram Panchayat,
R/o. Vanoja, Tal-Mangrulpeer,
District Washim.

... Respondents

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Mr Bipinchandra K. Patil, Advocate for the applicants
Mr S. J. Salgare, APP for respondent/State
Mr K. J. Suryawanshi, Advocate for respondent No. 2
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**CORAM : S. S. SHINDE &
A. M. DHAVAL, JJ.**

DATE : 21.08.2017.

ORAL JUDGMENT (Per A. M. Dhavale, J.) :

1. This is an application filed u/s 482 of the Code of
Criminal Procedure for quashing of the First Information Report

registered at C.R. No. 22/2016 dt. 10.06.2016 with Dhadgaon Police Station, Tal. Dhadgaon, Dist. Nandurbar, for the offences punishable u/s.302, 498A, 304-B r/w 34 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

2. The relevant facts may be stated as follows:

Deceased-Priya, daughter of the informant Prakash Kishan Ingole, resident of Wanoza, Tq.Mangrulpir, Dist.Washim, married to accused No. 1 - Pravin Ramdas Patil on 19.05.2013 at Wanoza. Accused Nos. 2-Ramdas & 3-Vainita are the parents of accused No. 1. Accused No. 4 – Amit is the brother of accused No. 1. Accused No. 5 - Sau. Priyanka is married sister and accused no. 6 Mahendra is Priyanka's husband & brother in-law of accused No. 1. Accused Nos. 1 to 6 are the applicants No. 1 to 6. Accused Nos. 2 to 4 were residing at Virahit, Tq. Murtijapur, Dist. Akola, while accused Nos. 5 & 6 are residing at Nandkheda, Tq. Mangrulpir, Dist. Washim. After marriage, Priya started cohabiting with her husband at Virahit, Tq. Murtijapur where he was residing along with applicants No. 2 to 4. Applicant No. 1 is a teacher and was posted in Adiwasi Ashram Shala at Gijari, Tq. Dhadgaon, Dist.Nandurbar. After initial stay of one and half

month at Virahit, Tq. Murtijapur, Priya started residing with her husband at Dhadgaon. She was treated well initially for a period of 4-5 months and thereafter her husband started making dowry demand of Rs.50,000/-. She was subjected to mental and physical harassment for non-fulfillment of the dowry demand. Since Priya was illiterate, it was also a ground for ill-treatment. When Priya visited her matrimonial house at Virahit, accused Nos. 2 to 4 were also making demand of dowry of Rs. 5.00 Lakhs and they were taunting her. She used to communicate these facts to her maternal relatives on phone and her father used to persuade her. Whenever she visited her maternal house, she narrated the incidents of ill-treatment to her maternal relatives. Whenever accused Nos. 5 & 6 were visiting the maternal place of accused No. 5, they were also taunting Priya for her low education and were making dowry demands from her. It is also alleged that, thereafter, all the accused forced Priya to undergo abortion twice. She had narrated these facts to her family members and her father had tried to persuade the accused persons to behave properly with his daughter. On 11.04.2015, at 11:30 AM, the informant received sudden message of death of his daughter at Dhadgaon. When he and his relatives came to Dhadgaon, police informed him that deceased committed suicide by hanging

herself. The informant stated that Priya was having a strong mind and she was not likely to commit suicide. He was told that, Priya's body was sent for post-mortem. When he saw dead body of Priya, he noticed that it was a case of death by throttling. He went to the police station to lodge report about murder but police from Dhadgaon Police Station informed him that they would record FIR on receipt of PM report and obtained his signatures on blank paper. The informant kept on making inquiry about post-mortem report but he was told that time of 2-3 months' would be required for receiving post-mortem report. As the informant was mentally depressed due to sudden death of his daughter, he sent mobile photos of dead body of Priya and believed the police. After some period, he learnt that the Investigating Officer was transferred from Dhadgaon and the investigation papers were sent to office of SDPO, Shahada. Police avoided to register the FIR of the informant. Hence, on 06.09.2015, he submitted a report to Supdt. of Police, Nandurbar by RPAD with one copy to Police Inspector, Dhadgaon and Police Inspector, Pinjar, Tq. Barshi Takli, Dist.Akola. Nevertheless the crime was not registered. Hence, on 21.03.2016, he filed application u/s 156(3) before the ld. JMFC, Dhadgaon. By order dt. 21.03.2016, ld. JMFC issued directions u/s 156(3) and thereafter FIR came to be

registered on 10.06.2016 at Dhadgaon Police Station.

3. Shri. B. K. Patil, learned counsel for the applicants argued for discharge on following grounds:

- (i) Priya had suffered two natural abortions and was mentally depressed. On 11.04.2015 at 10:00 to 11:00 pm, when accused No. 1 was talking with his landlord and neighbour, Priya was alone in the house and committed suicide. The door was latched from inside the house. The police have recorded the statements of landlord and the neighbour. The door was broken open and Priya was found hanging in bathroom. She had taken a steel tank under her feet which which was pushed away while committing suicide.
- (ii) The PM report shows that she died of strangulation with a ligature mark over her entire neck (30 cms). It is a case of suicide.
- (iii) In inquiry of accidental death case, the informant and his all relatives have given a statements that they had no complaint whatsoever against Priya's husband and in-laws.
- (iv) There is huge delay in lodging the FIR. The incident took place on 11.04.2015 and the FIR is registered on 10.06.2016. The complaint making

allegations was sent to Supdt. Of Police, Nandurbar, on 06.09.2015. Even if the said letter is treated as complaint, still there was delay of almost five months.

(v) There is no material to show that, Priya suffered homicidal death.

(vi) There is no previous complaint about any ill-treatment or dowry demands. The FIR as well as letter to SP, Nandurbar, dt. 06.09.2015 are afterthought and fabricated. The case of murder is palpably false. The medical evidence does not support the same.

4. Per Contra, Shri. K. J. Suryawanshi, learned advocate for respondent No. 2 and Shri. S. J. Salgare, learned APP for respondent/State opposed the Criminal Application. They contended that it is a case of death within two years. FIR discloses allegations of dowry and ill-treatment. The police have not properly investigated into the crime initially. The informant complained against the police that his signatures were taken on blank papers. The deceased had undergone abortion twice. She has suffered unnatural death when she was alone with applicant No. 1 – Pravin. Considering the facts, it is necessary to allow the

investigation to be completed and no case is made out for quashing the FIR.

5. After carefully considering the arguments and going through the papers including the papers of investigation produced before us, we are convinced that this is a fit case for quashing of FIR for following reasons.

- (i) Deceased-Priya died due to strangulation on 11.04.2015 at 11:30 PM at her matrimonial house at Dhadgaon. At that time, applicant No.1 – Priyanka's husband was chit-chatting with Ramesh Popat Nawale, the landlord and one Mr.Kantilal Khalya Tadvī, a teacher, in the courtyard of their house. There are statements to that effect. Deceased-Priya was alone in the house. Pravin immediately returned and informed Mr. Tadvī and Mr Nawale that his wife stood on steel tank, hung herself by putting a rope around her neck inside the bathroom in house and committed suicide. All of them then entered the house by breaking open the door. The broken lock was found lying inside the house. Priya was found hanging by rope in the bathroom. There are statements to that effect given by Ramesh Nawale and Kantilal Tadvī immediately after the incident on 13.04.2015. They are independent persons and applicant No.1-Pravin

had acquaintance of only eight days with landlord Ramesh Nawale.

6. The post-mortem report shows a ligature mark around the entire neck of the deceased-Priya. There are no injuries found on her person. The death is due to asphyxia on account of hanging. One steel tank was found in the bathroom. The informant and his relatives were residing at far away place at Wanoza, Tq.Mangrulpir, Dist.Washim and they have no personal knowledge about the same. The allegations of murder made by them is due to mental shock and agony of death of their beloved daughter. There is no contusions or abrasions found on the neck suggesting throttling of neck of Priya by applicant No. 1.

7. The death of Priya was promptly reported to her parents and they had immediately visited Dhadgaon, Dist.Nandurbar. The police have recorded the statements of parents as well as the relatives of the deceased. The statements of Priya's father Prakash, mother Nanda, uncle Ashok, uncle Subhash dtd. 12.04.2015 disclose that deceased Priya was happily cohabiting with her husband and there were no complaints from her. She was not subjected to any ill-treatment. She had

undergone two natural abortions and, therefore, out of depression she might have committed suicide. They had no complaints against anybody.

8. The Investigating Officer has also recorded the statements of Kantilal Tadvī, Ramesh Nawale & Chhotyabhai Raut, who were neighbours of applicant No. 1 & deceased-Priya. They have given statements that, Priya committed suicide due to depression on account of two natural abortions.

9. The informant-Prakash, father of deceased-Priya, lodged report on 06.09.2015. The Investigating Officer has also collected documentary evidence which shows that deceased-Priya had sustained two natural abortions first dt. 22.11.2013 and report of Nidan Clinical Laboratory by Dr. Mrs Meghana Patel shows natural termination of the pregnancy and thereafter she was under treatment with Shri Sai Maternity Hospital and Infertility Centre as well as Amrut Hospital at Akola. In spite of such treatment, the report of Dr. Meghana dt. 23.01.2015 shows, natural termination of pregnancy had again taken place. It may be stated that, deceased-Priya and applicant No. 1 had no issue and, therefore, applicant No. 1 had no reason to force Priya to

undergo abortion. In fact, he was supporting her to undergo gynec treatment. The statements of neighbours Bhagwan Bhoi & Chandan Jadhav also do not indicate that the applicant No. 1 had committed any offence with regard to death of Priya. We find no substance in the allegations in the FIR that Priya was subjected to undergo forceful abortions twice.

10. Priya's father Prakash Ingole, first time made complaint against the applicants before Superintendent of Police, Nandurbar, on 06.09.2015. There is no satisfactory explanation for delay of around five months in lodging the report. The names of police officers are not disclosed, who have allegedly manipulated the record in favour of the applicants. In the said complaint dt. 06.09.2015, for the first time the allegation of dowry demand of Rs. 5.00 lakhs is made against all the applicants. Applicant No. 1 alone was residing with deceased-Priya while remaining applicants were residing far away at Virahit, Tq. Murtijapur, Dist. Akola and at Nandkheda, Tq. Mangrulpir, Dist. Washim.

11. There are vague allegations of physical and mental ill-treatment meted out to deceased-Priya. There are no details of

the said allegations viz. date, time and place. Superintendent of Police, Nandurbar did not take any cognizance of this communication. Hence Priya's father filed complaint u/s 156(3) of the Code of Criminal Procedure to Judicial Magistrate First Class on 21.03.2016, which was 11 months' and 10 days after the incident. The learned Magistrate without calling for the papers of previous investigation, mechanically issued directions u/s 156(3) of Cr.P.C. and FIR came to be registered on 10.06.2016.

12. After carefully considering these circumstances, we find the case of the informant inherently improbable. During the investigation of the said complaint, the statements recorded of independent witnesses also do not support the prosecution case. There was no motive for applicant No. 1 to commit murder of his wife and or to subject her to ill-treatment. On the contrary, there is *prima facie* material showing that deceased-Priya had reason to go into depression on account of two natural abortions and her inability to conceive. The statements of her parents and maternal relatives disclose that Priya committed suicide only on account of abortions and her inability to conceive. These statements were recorded within two days after the incident cannot be lightly brushed aside on flimsy ground that the police officers have

obtained signatures of the informant on blank papers.

13. Our sympathies are with the informant, who has lost his young daughter. However, the allegations in the FIR do not disclose the commission of offences alleged. The allegations made in the FIR are absurd and inherently improbable. In such matter, the possibility of conviction is remote and bleak. The applicants cannot be made to face the ordeal of trial only for the mental satisfaction of the maternal relatives of the deceased when there is no *prima facie* material showing that they have committed any of the offences.

14. In the result, the continuation of the investigation in the crime will be abuse the process of the court and will be serious miscarriage of justice for the applicants. Hence, it is necessary to invoke jurisdiction u/s 482 of the Cr.P.C. which we do, to pass the following order.

ORDER

- (i) The Criminal Application is allowed.
- (ii) The First Information Report bearing C.R. No.22/2016 dt. 10.06.2016 registered with Dhadgaon Police Station, Tal. Dhadgaon, Dist.

Nandurbar, for the offences punishable u/s.302, 498A, 304-B r/w 34 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, 1961 and the investigation conducted therein, are hereby quashed and set aside.

(iii) The bail bonds of the applicants shall stand cancelled.

15. Rule is made absolute in the above terms with no order as to costs.

[A. M. DHAVALA]
JUDGE

[S. S. SHINDE]
JUDGE

sgp