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

**CRIMINAL APPLICATION NO. 1175 OF 2017**

Shrinivas Ashanna Satelikar
Age – 45 years, Occupation – Business and Social Worker,
R/at 101, Yash Apartments, Kailas Nagar,
Nanded-431605. … Applicant

*VERSUS*

01. The State of Maharashtra
Through Police Inspector,
Vasmath Police Station,
District – Hingoli.

02. Ramprasad Limbaji Pawar,
Aged 42 years, Occupation – Agriculture,
R/at Shahar Peth, Vasmath,
District – Hingoli. … Respondents

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Shri. Anand Chawre, Advocate for the applicant
Mr M. M. Nerlikar, APP for respondent/State
Mr S. J. Salunke, Advocate for respondent No. 2

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CORAM : **S. S. SHINDE &**
**A. M. DHAVALE, JJ.**

RESERVED ON : 19.09.2017.
PRONOUNCED ON : 29.09.2017.

**JUDGMENT (PER A. M. DHAVALE, J.):-**

1. This is an application u/s 482 of the Cr.P.C. for quashing of FIR registered at Crime No. 30/2017 against the applicant at

Vasmath Police Station, Tq. Vasmath, District Hingoli for the offence punishable under Section 306 r/w 34 of the IPC.

2. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at admission stage.

3. As per FIR lodged by respondent No. 2 - Ramprasad, his brother Shivaji committed suicide on the night intervening 30.01.2017 and 31.01.2017 in the field of Satyanarayan Kabra by hanging himself by means of Saree to a Neem tree. The FIR shows following reasons for commission of suicide.

> Deceased-Shivaji was of helping nature. Since one Gajanan Kadam from Mondha was in need of money, deceased mortgaged his one acre of land to the present applicant - Shrinivas Satelikar for Rs. 4,00,000/-. The amount was to be repaid along with interest at the rate of 3%. Out of the loan amount, Rs. 2,00,000/- was advanced to Gajanan Kadam. Since few days before suicide, Shivaji was found to be disturbed, respondent No.2-Ramprasad made inquiry with him. At that time,

deceased told him that Gajanan was not refunding the money given by him to Gajanan and was abusing him. It was time for getting the mortgage redeemed and obtain re-conveyance from the applicant – Satelikar, the applicant was pressing for refund of the amount and therefore he was facing mental disturbance. The informant Ramprasad and his brother Ashok tried to persuade Shivaji. About one month before the suicide, one Amarjitsingh and Indrapal had been to the house of Ramprasad and told him that Shivaji had taken money from them and he should be directed to refund the same. When Ramprasad made inquiry with Shivaji whether he had taken money from Amarjitsingh and Indrapal, that time he replied that he had taken money from Amarjitsingh and Indrapal to make payment to Satelikar and he had also refunded money to Amarjitsingh and Indrapal with interest. Still they were threatening and harassing him for money.

4. During investigation, it was revealed that three chits were found in the pocket of Shivaji. Besides, one small diary containing names with mobile numbers was also found in the house of the

deceased. There was conversation of deceased Shivaji with one of the accused Gajanan in the form of audio recording. Its transcript is produced on record. Out of the said three chits left by the deceased, in first chit dt. 30.01.2017 written to Police Inspector Vasmath, it was recorded that, he had mortgaged one acre of land to applicant-Satelikar for Rs. 4,00,000/- with agreement that it was to be re-conveyed on payment of Rs. 5,20,000/-. Out of the said amount, sum of Rs. 2,00,000/- was advanced to Gajanan Kadam for marriage of his niece. Gajanan was not refunding the amount and was abusing him whenever asked for money. The money taken from Satelikar was to be refunded on 17.01.2017, but Gajanan was not repaying it. Deceased - Shivaji disclosed this fact to his parents and brother but they told him that he should handle his own transactions and he should not disclose them about anything. Gajanan was threatening to kill Shivaji. This money was secured by Gajanan from Satelikar. As he was not getting money back from Gajanan, he got himself hanged. It is also recorded that, sale deed was executed 24 months back, and the agreement was to repay the amount within three years from the date of mortgage.

5. The second chit dt. 27.12.2016 is written to Police Inspector, Police Station Vasmath, complaining that he had taken

Rs.10,000/- as hand loan from Amarjitsingh. He has repaid the same along with interest of Rs. 5,000/-, still Amarjitsingh was demanding the said loan amount. He was carrying weapon like knife and Jambiye with him. Shivaji sought protection of himself and his family members. He was claiming money with interest at the rate of Rs. 500/- per day.

6. The third chit dt. 27.12.2016, which is also written by deceased Shivaji to Police Inspector, Police Station, Vasmathnagar. In this chit it was complained that he had taken loan of Rs. 40,000/- from Indrapal for a period of four months. He had repaid the loan of Rs.40,000/- with interest of Rs. 10,000/-, still Indrapal was claiming excessive interest at the rate of Rs. 1000/- per day.

7. Mr Chawre, learned counsel for the applicants argued that the applicant has obtained the registered Sale Deed dt.19.01.2015 from the deceased by making full payment of Rs. 5,00,000/-. It is as per market rate. He has received possession. In pursuance thereof, mutation was effected in the 7/12 extract. The applicant was not indulging in any money lending transactions and had no contact with the deceased. He is not concerned with the suicide of the deceased. The applicant was released on anticipatory bail by this Court. **He has**

**placed reliance on Madan Mohan Singh Vs. State of Gujarat & Anr. (2010) 8 SCC 628, Ratan Pundlik Salunkhe & Ors. Vs. State of Maharashtra and Ors. 2016 ALL.M.R (Cri.) 4858, Netai Dutta Vs. State of West Bengal AIR 2005 SC 1775 & Kishor Dattatraya Shinde Vs. State of Maharashtra & Ors. 2016 ALL.M.R. (Cri) 333,** wherein it is held that the act of the accused should disclose the intention or knowledge that the deceased should/would commit suicide.

8. Mr Nerlikar, learned APP for the respondent/State and Mr. S. J. Salunke, learned counsel for respondent No. 2 submitted that, the deceased was persistently harassed for refund of money by the applicant. He was not holding any money lending license, still he was indulging in money lending. Therefore, at the threshold, the FIR does not deserve to be quashed against the applicant. An offence u/s 39 of the Maharashtra Money Lending (Regulation) Act, 2014 is added to the FIR.

9. We have carefully heard the learned advocates and perused the documents collected during the investigation. The copies of chits found with the deceased were also separately produced and are considered. The learned APP & counsel for the respondents stressed

on the fact that Gajanan was mediator between the present applicant and deceased - Shivaji at the time of loan transactions.

10. The suicide note shows that, the deceased was depressed and therefore had approached his parents and brother but that time his brother had declined to help him. Therefore, the allegations of brother of the deceased will have to be read cautiously. Copy of the sale deed produced by the applicant disclose that on 19.01.2015 the deceased Shivaji sold his one acre land to applicant-Shrinivas for Rs.5.00 lakhs. The market value of the said land shown is shown as Rs. 14.00 lakhs per Hector. At this stage, the suicide note will have to be assumed to be true. It shows that it was a money lending transaction. Actual loan of Rs. 4.00 lakhs was given and amount of Rs.5.20 lakhs was to be repaid within three years. If these facts are considered, the rate of interest is not 3% per month but 10% per annum. The interest rate charged is not excessive or exorbitant. The suicide note does not show that the applicant was insisting for repayment of loan. In fact, it shows that there was a period of one more year for getting the re-conveyance executed. It is also to be considered that, when the applicant Shrinivas was having registered sale deed in his name, he has no reason to insist for repayment of loan. It will be for the borrower to repay the loan and obtain the re-

conveyance executed. It is not the complaint of the deceased that the applicant had refused to re-convey the land.

11. It is true that, the suicide note shows that Gajanan was mediator for securing the loan to the deceased from applicant Shrinivas. There is no allegation whatsoever to show that there was conspiracy between the applicant and Gajanan Kadam and Gajanan was deliberately avoiding to refund the amount of hand loan so that the applicant could grab the land. In fact, the FIR shows that, deceased Shivaji had very good relations with Gajanan and he sold his land so as to advance Rs. 2,00,000/- to Gajanan for meeting expenses of his niece's marriage.

12. Thus, it is quite improbable that the applicant was insisting for repayment of the loan in view of the registered sale deed in his favour. The suicide note does not disclose that the applicant was insisting for refund of the loan. It also does not show that there was any excessive or exorbitant rate of interest charged. The investigation revealed that the deceased - Shivaji had a mobile phone. The statements of the witnesses recorded during the investigation are not consistent with the suicide note left behind by the deceased with respect to the alleged demands of refund of

loan made by the applicant. The audio recording of talk between the deceased and Gajanan shows that Gajanan was denying that he had received any such hand loan from the deceased. It shows that, Shivaji had sold his one acre land and had purchased a flat and stated that his land was gone. This audio clip does not show any allegations against the applicant - Shrinivas.

13. The law regarding quashing of FIR for offence u/s 306 of IPC is well developed as follows : -

(i) In **Ramesh Kumar V. State of Chhattisgarh (2001) 9 SCC 618**, it is held that, where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an 'instigation' may have to be inferred.

(ii) In **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) (2009) 16 SCC 605**, it is held that, a reasonable certainty to incite the consequences must be capable of being spelt out. More so, a continued course of conduct is to create such circumstances that the deceased was left with no other option but to commit suicide.

14. After considering the above referred evidence appearing in the investigation conducted during last 7-8 months, we find that there was no persistent harassment to the deceased by the applicant for recovery of loan amount. In fact, there is doubt whether there was any demand of loan or not as the suicide note is silent about the same and the applicant was having registered sale deed in his name. Even as per the allegations in the suicide note, the applicant had not charged excessive or exorbitant interest and had agreed to re-convey the land in case the amount of Rs. 4.00 lakhs was refunded within three years along with interest of Rs. 1.20 lakhs. The facts alleged against the applicant even if taken at their face value and read in entirety do not show any ingredient of abetment as the applicant did not create any situation for the deceased as would leave him with no other option but to commit suicide. On the contrary, there are allegations against other money lenders, who in spite of repayment of loan along with interest, were harassing the applicant by making further demands of interest at the excessive rate and were threatening to kill him. It is made clear that, the observations made herein above are *prima facie* in nature and confined for the purpose

of deciding this application only.

15. In the result, we hold that, the offence u/s 306 r/w 34 is not made out against the applicant. However, the investigation with regard to offence under the Maharashtra Money Lending (Regulation) Act needs to proceed further and the FIR cannot be quashed with regard to said offence. Hence, we partly allow the application and quash the FIR registered at Crime No. 30/2017 against the applicant with Vasmath Police Station, Tq. Vasmath, District Hingoli for the offence punishable under Section 306 r/w 34 of the IPC. It is clarified that, FIR is not quashed with regard to offence under the Maharashtra Money Lending (Regulation) Act, 2014.

16. Rule made absolute in the above terms. There shall be no order as costs.

**[ A. M. DHAVALE ]**
**JUDGE**

**[ S. S. SHINDE ]**
**JUDGE**

sgp