

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

CRIMINAL APPLICATION NO. 2111 OF 2017

Vilas s/o Sheshrao Bhagat,
Age 44 years, Occu. Agri.
and service, R/o Belapur Kd,
Taluka Shrirampur,
District Ahmednagar

.. Applicant

Versus

1. The State of Maharashtra,
through Police Station,
Shrirampur City,
District Ahmednagar
2. Harshal s/o Sunil Raut,
Age 30 years, Occu. Business,
R/o Pimpalgaon Fungi,
Taluka Rahuri,
District Ahmednagar

.. Respondents

Mr Mr Kunal Kale, Advocate for applicant
Mr V.M. Kagne, A.P.P. for respondent no.1
Mr B.G. Sagade Patil, Advocate for respondent no.2

**CORAM : S.S. SHINDE AND
A.M. DHAVALA, JJ**

**DATE OF RESERVING
THE JUDGMENT : 4.9.2017**

**DATE OF PRONOUNCING
THE JUDGMENT : 6.9.2017**

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

1. Rule. Rule returnable forthwith. With the consent of parties, matter is taken up for final disposal at admission stage.
2. This is an application under Section 482 of Cr.P.C. for quashing of F.I.R. registered against the applicant at C.R.No.I-31/2017 at Shrirampur Police Station on 25.1.2017 under Section 306 of Indian Penal Code.

3. As per the F.I.R. lodged by respondent no.2 Harshal dated 25.1.2017, his uncle Suhas Raut aged 51 years was running a business of sale of Finolex drip irrigation and fitting at Belapur (Kh.) in the name and styled as "Pravara Agro Services". On 25.1.2017 at 7.30 p.m., when respondent no.2 Harshal was at Deolab Pravara, Taluka Rahuri, his mother informed him that his uncle Suhas was not attending to the phone call and he should go to Belapur to meet him and verify his well being. Respondent no.2 along with his wife went to Belapur and found that his uncle Suhas had committed suicide by hanging himself by nylon rope to the roof angles of the shed. He was taken down and was found dead. Respondent no.2 Harshal found one suicide chit in his pocket, which disclosed that he was under pressure of payment of subsidy amount to the applicant Vilas Bhagat. He was under tremendous pressure for six months, as he had sustained heavy losses in the business and was depressed. Then, the information was supplied to the police. The informant learnt that the applicant was regularly meeting his uncle in his shop in connection with recovery of subsidy of drip irrigation set purchased by him and was intimidating him that if the subsidy amount would not be paid by him, he (applicant) would take away his all articles from the shop and therefore, his uncle Suhas has committed suicide. Accordingly, F.I.R. was lodged on the same day at 8.00 p.m. and the crime was registered on 25.1.2017. The applicant applied for anticipatory bail and was released on bail by brother Judge (Justice N.W. Sambre) of this Court on 20.2.2017. The applicant claimed that he is well educated and from a respectable family and was working as Principal in Shri Anand College of Pharmacy, Pathardi, District Ahmednagar. He

has 3 hectare 24 R irrigated agricultural land at Ambi, Taluka Rahuri. He admitted that he had purchased drip irrigation set from the deceased, worth Rs.94,999/- on 1.3.2014 under the Central government scheme. He had not abetted the commission of suicide by deceased Suhas. Deceased Suhas was under depression due to losses sustained in the agriculture. Therefore, he has committed suicide. Hence, the applicant claims that the F.I.R. lodged against him should be quashed.

4. Mr V.M. Kagne, learned A.P.P. for the State and Mr Sagade, learned Counsel for respondent no.2 opposed the quashing of F.I.R. It is claimed that the deceased has left behind a suicide note and name of the applicant is disclosed in the same. The applicant was harassing him for payment of subsidy and it created mental pressure which resulted into the commission of suicide by the deceased. Therefore, the matter needs investigation and trial.

5. We have gone through the papers of investigation produced by the learned A.P.P. There are statements of some persons showing that the applicant was abusing the deceased in filthy language for recovery of the subsidy amount and had intimidated him. Investigation seems to be almost complete except receipt of handwriting expert report.

6. While considering the plea for quashing of the F.I.R. under Section 482 of Cr.P.C., it is well settled that the Court has to assume the facts placed before it as true and correct and should not consider

whether the facts were probable or not unless those are inherently improbable.

7. We, therefore, assume that the suicide note produced before us was left behind by the deceased.

8. We find that there is no dispute that deceased Suhas committed suicide. There is also no dispute that the applicant had purchased from him drip irrigation set. Its bill dated 1.3.2014 of Rs.94,999/- has been produced by the applicant himself. It is also not disputed that as per the scheme of Central government, the applicant was entitled for subsidy payable for fitting drip irrigation system and such subsidy is paid through the dealer. As such, the deceased was liable to pay the subsidy amount to the applicant, when he would get the same from the government.

9. There is no direct evidence or circumstance to show that applicant desired that the deceased should commit suicide. There is no direct material showing intention or knowledge that the deceased would commit suicide because the applicant would demand subsidy amount from him.

10. In such situation, when there is no intention, the deemed knowledge can be inferred on the part of the applicant only if he creates situation of such a thing that the deceased has no option but to commit suicide. In this regard, we rely on **Chitreshkumar Vs. State of NCT Delhi, AIR 2010 SC 1446**, in which while dealing with the term 'instigation', the Supreme Court held as follows :

“ ...instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of "instigation", though it is not necessary that actual words must be used to that effect or what constitutes "instigation" must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. 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. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage doing of an act by the other by "goad" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action: provoke to action or reaction....to keep irritating or annoying somebody until he reacts."

In **Ramesh Kumar Vs. State of Chhattisgarh, AIR 2001 SC 3837** it is held that

“...what constitutes 'instigation' must necessarily and specifically be suggestive of the consequences. 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.”

11. In the present case, it is not disputed that the applicant was entitled for subsidy amount from the deceased. It is not an act of abetment that the applicant purchased drip irrigation system from the deceased. Similarly, if the applicant was demanding the subsidy amount payable to him by the deceased, the said act cannot be also called as an act of abetment. The applicant was not demanding any illegal amount. There was no demand for interest at exorbitant rate or any like demand. The demand of the applicant with the deceased was legitimate demand. The suicide note produced disclosed that the deceased had sustained heavy agricultural losses and was in tremendous pressure and depression. If in such situation the applicant demanded his over due subsidy amount from the deceased, it can be the temporary cause for the deceased to go into acute depression so as to commit suicide. It seems that there are allegations that the applicant abused and intimidated the deceased so as to get back his subsidy amount. Still it must be remembered that it was a legitimate demand and the applicant had not received the said amount for a period of three years. Making a demand for legitimate amount probably a bit aggressively so that the deceased would make the payment, do not fall in the category of persistent harassment by illegal demands of money. We, therefore, find that even if the allegations against the applicant are taken at face value as it is without adding or subtracting anything from the same, still it is not sufficient to infer that the deceased was abetted by the applicant to commit suicide. Mere appearance of name of the applicant in the suicide note by itself is not a circumstance to hold that the applicant

was responsible for the commission of suicide by the deceased. In this regard, we rely upon **Dilip s/o Ramrao Shirasrao and ors. Vs. State of Maharashtra, 2016 (5) Mh.L.J. (Cri.) 323.**

12. In the light of the ratio laid down in the above referred judgments and applying the same to the facts of the present case, we find that there is no material to even remotely infer that the petitioner has deemed to have abetted by instigation, intentional aiding or by conspiracy to drive the deceased to commit suicide. Continuation of the proceedings against the petitioner will be an abuse of process of Court. Hence, the application deserves to be allowed. Hence, the order :

ORDER

(I) The F.I.R. bearing C.R.No.I-31/2017, registered against the applicant at Shrirampur Police Station on 25.1.2017 under Section 306 of Indian Penal Code is hereby quashed.

(II) Rule is made absolute in above terms. There shall be no orders as to costs.

(A.M. DHAVAL, J.)

(S.S. SHINDE, J.)