

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

**CRIMINAL APPLICATION 2980 OF 2017**

Rajkumar S/o Gangadhar Shingare (Singare)  
Age:53 Years, Occ.: Service  
R/o Office Quarters, Panchayat Samiti  
Tuljapur, Tq. Tuljapur, Dist.Osmanabad ... APPLICANT

Versus

1] The State of Maharashtra,

(Copy to be served on APP  
of High Court Bench at Aurangabad)  
Through Bembali – P.S., Dist.Osmanabad  
in Crime No.33/2017

2] Siddhanath s/o Ashok Kale  
Age 28 yrs, Occu-Agril.,  
R/o Ruibhar Bembali, Tq.  
& Dist.Osmanabad.

..RESPONDENTS

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Mr.S.S.Panale, Advocate for applicant.  
Mrs.P.V.Diggikar, AGP for Respondent Nos. 1.  
Mr.N.K.Choudhari, Advocate for respondent No.2.  
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**CORAM : S.S.SHINDE &  
MANGESH S. PATIL, JJ.**

**RESERVED ON : 09/10/ 2017.  
PRONOUNCED ON :13/10/2017.**

**JUDGMENT ( PER MANGESH S. PATIL,J.) :**

1] Rule. Rule is made returnable forthwith. Heard finally

with the consent of all the parties.

2] This is an application under Section 482 of Cr.P.C. seeking quashment of the FIR in pursuance of which Crime No.33/17 has been registered with Bembali Police Station, District Osmanabad for the offence punishable under Section 306 r.w. Section 34 of IPC. The respondent no.2 is the informant.

3] The deceased Ashok Kale was serving as a Junior Assistant Clerk in the office of Panchayat Samiti, Tuljapur. Since 17/2/2017, he had not resumed duty. In the midnight of 20/2/2017, Ashok left home and was not traceable. Two chits were found in his pant at home. In one of the chits, it was mentioned that Block Development Officer was harassing him mentally and one C.L.Lokare was also causing him harassment. In another chit, it was written that the applicant and the Village Development Officer had caused mental harassment and therefore, he was committing suicide. The chits were handed over to police and everybody was in search of Ashok. Finally on 4/3/2017 he was found dead in the field of one Ronghe and after completing formalities, the aforementioned crime was registered and the applicant was roped in for allegedly abetting commission of suicide.

4] According to the learned advocate for the applicant, there is absolutely no material except the vague so-called suicidal notes to infer that the applicant was either intentionally aiding, instigating or had conspired the suicide. It would be hazardous and misuse of the process of law in allowing the Government official like the applicant to face trial on the basis of such vague material. Learned advocate relied upon following decisions : [1]Madan Mohan Singh V/s State of Gujrat; 2010 AIR SCW 5101; [2] State of Kerla V/s S. Unnikrishnan;

(2015) 9 SCC 639 and [3] Dilip S/o Ramrao Shirasao and others V/s State of Maharashtra and another; 2016 All MR (Cri) 4328.

5] The learned advocate for the respondent no.2 and the learned APP vehemently submitted that the contents of the suicidal notes are clinching and clearly show that the applicant had made life of deceased Ashok miserable and subsequent event of his committing suicide clearly shows that there was a nexus between the suicide and the harassment. In support of their contention, they referred to the decision in the case of State of Haryana V/s Bhajanlal; AIR 1992 S.C. 604 and submitted that the contents of the FIR at its face value cannot be said to be falling short to constitute ingredients of the offence punishable under Section 306 of the IPC. The allegations therein cannot be said to be inherently and improbable and the case of the applicant does not fall into any of the seven categories mentioned therein.

6] We have carefully gone through the FIR, suicidal notes, papers of investigation, affidavit in reply of the respondent no.2 and the judgments cited by both the sides.

7] In order to appreciate the facts, it would be necessary to reproduce the contents of the suicidal notes which are in vernacular and can be roughly translated as under :

Note No.1

“I am committing suicide because of mental harassment by B.D.O. Panchayat Samiti, Tuljapur, Shingare Saheb, C.N.Lokare, Village Development Officer. These two persons are responsible for ensuing disaster on my family.

Hence I request Hon'ble Chief Executive Officer, Zilla Parishad, Osmanabad to avoid such disaster falling on the family."

Sd/- "

On the right side of above writing following has been written :

" I am committing suicide because of the harassment meted out to me by Hon'ble B.D.O. Awa. The Hon'ble C.E.O. should pay all his dues to his family members without harassing them."

Note No.2

" B.D.O. Panchayat Samiti, Tuljapur has harassed me and therefore, I am committing suicide on 16/2/2016. C.N.Loakre has also harassed me mentally and therefore, I am committing suicide."

These two Notes do not bear any date, to show as to on what date those were actually written. However in the second Note it is mentioned that he was committing suicide today on 16/2/2016, This clearly shows that there is has no proximity with the harassment meted out to him and date on which he actually committed suicide in the month of February/March, 2017.

8] Suffice for the purpose to observe that it is trite, as has been laid down in the case of Madan Mohan Sing and Dilip Shirasao (supra) that there has to be such proximity in the alleged act of instigation and the actual commission of suicide and in the absence of such proximity it cannot be said that the alleged harassment is the cause for commission of suicide. The distinction essentially has to be between the actual cause and the quasi-quasan. It is only such harassment which expressly causes the person to commit suicide is what is contemplated and required to constitute an offence of

abettment of suicide punishable under Section 306 of the IPC.

9] In the case of any employment where there is hierarchy, every superior officer is bound to monitor working of his subordinates and it is a part and parcel of his duties. If in discharge of such duties, the subordinate feels that the superior was harassing him, such feeling being harboured by a subordinate would depend upon temperament of each person. Therefore, in the absence of specific allegation, in the matter in hand, as to in what manner the applicant had subjected the deceased to harassment, it would be a sheer misuse of process of law, if the applicant is made to stand up to the trial.

10] In these circumstances, we are satisfied that applying the principles laid down in the case of Bhajanlal (supra), even by accepting contents of the FIR as it is, the ingredients for constituting the offence punishable under Section 306 of IPC are not made out. The allegations are absurd and inherently improbable. In our view, this is a fit case to quash and set aside the FIR.

11] The Application is allowed. Rule is made absolute in terms of prayer clauses "B" and "C".

umg/ **(MANGESH S. PATIL,J.)**

**(S.S.SHINDE,J.)**