

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

CRIMINAL APPLICATION NO. 2967 OF 2017

Vikas S/o Nagnath Londhe,
Age : 32 years, Occu. Business,
R/o. Vishal Nagar, Latur,
Ta. and Dist. Latur.

... Applicant

VERSUS

1. The State of Maharashtra,
Through the Police Station Officer,
MIDC Police Station, Latur
Dist. Latur.

2. Santosh S/o Anantrao Shinde,
Age : 35 years, Occu. Agri.
R/o. Srinagar, MIDC Latur,
Ta. And Dist. Latur.

... Respondents

.....

Mr N. D. Kendre, Advocate for the applicants
Mr S. L. Salgare, APP for respondent/State
Mr Sachin S. Deshmukh, Advocate h/f Mr Shaikh Majit, Adv. for
respondent No.2

.....

WITH

CRIMINAL APPLICATION NO. 3332 OF 2017

Ranjeet S/o Dagdu Chavan,
Age : 33 years, Occu. Business,
R/o. Barshi Road Behind Bajaj Showroom,
Valmiki Nagar, Latur, Ta. and Dist. Latur.

... Applicant

VERSUS

1. The State of Maharashtra,
Through the Investigation Officer,
Crime No. 356/2016, registered with
MIDC Police Station, Latur,
Tq. & Dist. Latur.

2. Santosh S/o Anantrao Shinde,
Age : 35 years, Occu. Agri.
R/o. Srinagar, MIDC Latur,
Ta. And Dist. Latur. ... Respondents

.....

Mr N. R. Pawade, Advocate for the applicant
Mr S. L. Salgare, APP for respondent/State
Mr Sachin S. Deshmukh, Advocate h/f Mr Shaikh Majit, Adv. for
respondent No.2

.....

WITH
CRIMINAL APPLICATION NO. 3856 OF 2017

Hemant S/o Balasaheb Jadhav,
Age : 32 years, Occu. Business & Agri.,
R/o. Netaji Nagar, Opposite Veterinary Hospital,
Latur, Ta. and Dist. Latur. ... Applicant

VERSUS

1. The State of Maharashtra,
Through the Police Station Officer,
MIDC Police Station, Latur
Dist. Latur.
2. Santosh S/o Anantrao Shinde,
Age : 35 years, Occu. Agri.
R/o. Srinagar, MIDC Latur,
Ta. And Dist. Latur. ... Respondents

.....

Mr N. D. Kendre, Advocate for the applicant
Mr S. L. Salgare, APP for respondent/State
Mr Sachin S. Deshmukh, Advocate h/f Mr Shaikh, Adv. for
respondent No.2

.....

WITH
CRIMINAL APPLICATION NO. 4119 OF 2017

Santosh S/o Prabhu Chavan,
Age : 35 years, Occu. Business,
R/o. Katgaon Krishana Nagar Tanda,
Ta. and Dist. Latur. ... Applicant

VERSUS

1. The State of Maharashtra,
Through the Police Station Officer,
MIDC Police Station, Latur
Dist. Latur.
2. Santosh S/o Anantrao Shinde,
Age : 35 years, Occu. Agri.
R/o. Srinagar, MIDC Latur,
Ta. And Dist. Latur. ... Respondents

.....
Mr N. D. Kendre, Advocate for the applicants
Mr S. L. Salgare, APP for respondent/State
Mr Sachin S. Deshmukh, Advocate h/f Mr Shaikh, Adv. for
respondent No.2
.....

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

RESERVED ON : 01.09.2017.
PRONOUNCED ON : 21.09.2017.

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

1. By these applications under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of FIR registered at C.R. No. 0356/2016 against them at MIDC Police Station, Latur for offence punishable u/s 306 r/w 34 of the Indian Penal Code. There are in all 13 accused in the crime. Criminal Application No. 7000/2016 filed by Sham Kabra, Criminal Application No. 1490/2017 filed by Shatrughan Ganpati Shinde, Criminal Application

No. 1831/2017 filed by Vinod Mokahe and Criminal Application No. 2108/2017 filed by Tukaram Sawant, all from the same crime were allowed and the FIR has been quashed against the respective applicants.

2. Rule. Rule made returnable forthwith. Heard finally all the applications with the consent of the parties and taken up for final disposal at admission stage. Since common questions of facts involved in all the applications, same are decided by this common Judgment.

3. Deceased-Balaji Anantram Shinde, aged 33 years, was residing separately from his parents and brothers along with his wife at Srinagar, MIDC, Latur. On 01.06.2016 at 8:30 pm, he consumed insecticide purchased by him on the same day at 6:00 to 6:30 PM. He was taken to Galaxy Hospital at Latur. In spite of treatment, he died on 03.06.2016 at 00:30 midnight. The crime is registered on the basis of FIR lodged by brother of the deceased by name Santosh on 13.10.2016 i.e. four months and 10 days after the death of Balaji. However, it must be mentioned that on 02.06.2016, report was lodged by the informant at the Police Station. Similar to the FIR. The wife of the deceased lodged another report dt. 03.06.2016 alleging that the deceased was killed by his parents and brothers by

administering poison. In view of the divergent report, the FIR came to be registered late. The investigation revealed no substance in the allegations of wife of the deceased.

4. As per the FIR, at the relevant time, wife of the deceased had gone to her maternal house for delivery, hence, the deceased used to visit the house of his parents and brother, which is situated in the same locality. That time, many persons used to come to him for demanding money and were insisting for payment. When the informant and his father asked the deceased about their demands, the deceased told them that he owed them money but he had no money to repay them and hence they were very much harassing him. Then on his request, the informant and his father paid to the deceased an amount of Rs. 6.00 lakhs and told him to repay their money and not to borrow again. On 01.06.2016 at 08:30 PM, Balu Mali gave a ring to the informant about the consumption of insecticide by deceased - Balaji. When the informant visited the hospital and made inquiry, the deceased told him that money paid by informant and his father were spent in business and the outstanding dues were not yet cleared and the lenders were harassing him. He felt awkward to make further demand from the informant and his father and hence he consumed insecticide. When the informant asked him how much amount he owed and to how many persons, the

deceased told him that he had written it on a chit showing the names and the outstanding amount and he would give that chit after returning home. However, the health of deceased was deteriorated and he died on 03.06.2016 at 00:30 hrs. on 23.09.2016, Adv. Anil Jadhav on behalf of one of the accused Gurunath Kakde sent a demand notice u/s 138 of the Negotiable Instruments Act in the name of deceased - Balaji. Hence, the informant checked the articles of the deceased - Balaji and he found one diary containing an agreement on a bond paper of Rs. 100/- for payment of Rs. 2.50 lakhs payable on 15.05.2016. Besides, there was one chit wherein the names of nine persons including all the four applicants were recorded along with their mobile numbers and the amount payable to them. The informant stated that, the accused Shatrughan Shinde and Sham Kabra were visiting personally or through their agents to make demands from the deceased. FIR also discloses that, the deceased has completed work of one B. K. Jadhav from Belgaon but he had not paid his dues and, therefore, the deceased was constrained to obtain loan from the aforesaid persons. The note shows following amounts payable to different persons.

Sr. No.	Name of person	Amount
1	Sham Toshniwal (Kabra)	Rs. 1,00,000/-
2	Ranjit Chavan	Rs. 25,000/-

3	Vinod Mokahe	Rs. 50,000/-
4	Santosh Chavan	Rs. 50,000/-
5	Tukaram Sawant	Rs. 1,00,000/- Rs. 50,000/-
6	Hemant Jadhav (Patsanstha)	Rs. 50,000/-
7	Vikas Londhe	Rs. 25,000/-
8	Balaji Kakade	Rs. 80,000/-

5. Learned APP has filed say of the Investigating Officer and it discloses that, the police had visited the Galaxy Hospital but could not record the dying declaration of Balaji as he was unconscious. The investigation revealed that, on 02.06.2016 i.e. after consumption of insecticide, before death of Balaji, the informant Santosh-respondent No. 2 has filed a report similar to the present FIR. The only difference is that it is silent regarding receipt of notice from Gurunath Kakade and the stamp paper of loan of Rs. 2.50 lakhs and chit left by the deceased showing outstanding amount payable to various accused persons. On 03.06.2016, Pooja - wife of the deceased lodged FIR that on 01.06.2016 at 07:30 to 8:00 PM the deceased had gone to the house of his parents for partition and that time his parents and brother had assaulted him and administered poison and without intimation to her, her husband was admitted in Galaxy Hospital. Her father was informed about the incident only on 03.06.2016 at 01:00 to 01:30 PM after the death of Balaji. When she visited the hospital, she saw injuries on the person of the deceased including on the skull.

6. Learned advocate for the applicants have argued that the allegations in the FIR even if taken at their face value, do not disclose the ingredients of abetment to commit suicide. There are mere allegations that some amounts were advanced by the applicants to the deceased and they were demanding those amounts back. These facts do not attract the ingredients of abetment as defined u/s 107 of Indian Penal Code. It is also argued and reliance is also placed on the report lodged by wife of the deceased against the informant and his parents. It is argued that, the deceased had married to Pooja against the wishes of the informant and his parents and, therefore, he had to live separate from his parents. The parents and the informant had obtained from him a Relinquishment Deed. The deceased had sustained loss in the business and, therefore, he has committed suicide. A copy of Relinquishment Deed is produced by Ranjit Chavan along with his application at Annexure 'C'. The informant also disclosed that, Pooja-wife of the deceased had filed Reg. Civil Suit for effecting partition against the informant and his parents within short time after the death of Balaji. The applicants have filed copies of the Judgments in Criminal Application No. 1490/2017 and connected matters filed by three accused persons from the said crime, delivered by Division Bench of this Court to which one of us (A. M.

Dhavale, J.) was a party and Judgment in Criminal Application No. 7000 of 2016 decided by the Division Bench of this Court on 24.02.2017 to which one of us (S. S. Shinde, J.) was a party and claimed parity.

7. Per contra, Mr Salgare, learned APP for respondent/State and Mr Sachin Deshmukh, learned advocate for respondent No. 2 submitted that the deceased was subjected to persistent harassment by way of demand of money and he was driven to such a position that he had no other alternative but to commit suicide. They argued that, the applicants Vikas Londhe and Ranjit Chavan had abducted the deceased on 26.05.2016 for recovery of money and he was wrongfully confined. Their case does not stand on parity with the other applicants released.

8. We have carefully gone through the papers produced and the rulings cited. After carefully considering the arguments advanced, in the light of the facts of the case, the question before us is whether FIR deserves to be quashed as against Vikas Shinde, Ranjit Chavan, Hemant Jadhav and Santosh Chavan.

9. The law regarding quashing of FIR is well developed. In a recent case **Taramani Parakh versus State of Madhya Pradesh**

(2015) 11 SCC 260, relying on **Amit Kapoor Versus Ramesh Chander and another** (2012) 9 SCC 460, the principles for invoking powers u/s 482 of the Code of Criminal Procedure are laid down as follows:

- 1) *Though there are no limits of the powers of the Court under [Section 482](#) of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of [Section 228](#) of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.*
- 2) *The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.*
- 3) *The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.*

- 4) *Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loathe to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.*
- 5) *Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.*
- 6) *The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.*
- 7) *The process of the Court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.*
- 8) *Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a ‘civil wrong’ with no ‘element of criminality’ and does not satisfy the basic ingredients of a criminal offence, the Court may be justified in quashing the charge. Even in such cases, the Court would not embark upon the critical analysis of the evidence.*

9) *Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction, the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.*

10) *It is neither necessary nor is the court called upon to hold a full-*

fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

11) *Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.*

12) *In exercise of its jurisdiction under [Section 228](#) and/or under [Section 482](#), the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed with by the prosecution.*

13) *Quashing of a charge is an exception to the rule of*

continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.

- 14) *Where the charge-sheet, report under [Section 173\(2\)](#) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.*
- 15) *Coupled with any or all of the above, where the Court finds that it would amount to abuse of process [of the Code](#) or that interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae, i.e. to do real and substantial justice for administration of which alone, the courts exist.*
- 16) *These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not*

been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.

10. The law is equally well developed in case of quashing of FIR in cases involving offence of abetment u/s 306 of IPC with reference to money lending transaction. In case of **Gangula Mohan Reddy Vs. State of A.P. 2010 CRI. L. J. SC 3110/2110**, it is held in para 13 which reads as under : -

13. *In State of W.B. v. Orilal Jaiswal, this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.*

11. In **Chitresh Kumar Chopra Vs State (Govt.of NCT of Delhi) (2009) 16 SCC 605**, one Jitendra Sharma committed suicide

by shooting himself leaving behind a suicide note showing the real estate business transactions with Jahiroddin and Mahavir Prasad. The note disclosed that some money from business was given to them but they had become dishonest. They were troubling the deceased and he was pressurized and brought under stress. In that case, the trial Court had even framed the charge. In the facts, it was held in para 22 of the said Judgment, which reads as under:

22. *In the present case, apart from the suicide note, extracted above, statements recorded by the police during the course of investigation, tend to show that on account of business transactions with the accused, including the appellant herein, the deceased was put under tremendous pressure to do something which he was perhaps not willing to do. Prima facie, it appears that the conduct of the appellant and his accomplices was such that the deceased was left with no other option except to end his life and therefore, clause Firstly of Section 107 of IPC was attracted.*

12. In **Ramesh Kumar Versus State of Chhattisgarh 2001 (9) SCC 618**, it was observed that, 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. The present one is not a case 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 been inferred.

13. In **Sohan Raj Sharma Vs State of Haryana 2008(1) SCC 2015**, it is held that the proximity and nexus of the act alleged against the petitioners and conduct and behaviour of the petitioners while establishing the link of abetment is absent in the present case as is apparent from the fact that the alleged abetment according to the complainant begun in September 2012 resulting into suicide of Yuvraj on 24.02.2013, almost after a period of 5 months.

14. In **Ramesh Tayade Vs State of Maharashtra 2016 ALLMR Cri 5049**, the Division Bench of this Court at Nagpur Bench (Coram B. R. Gavai & A. S. Chandurkar, JJ.) has observed that, except statement of father of the deceased that amount was borrowed and the legal notice seeking repayment of amount coupled with the threat of life being given, there is no material even to *prima facie* establish

that the applicants had either an intention to aid or instigate or abet deceased to commit suicide by accused. Such intention cannot be drawn from mere issuance of legal notice and basic and vital ingredient of Section 306 of IPC is missing. Quashing allowed.

15. In **State of Kerala Versus Unnikrishnan Nair 2015 Cr.L.J. 4495 SC**, necessity of continuous conduct of harassment to infer the abetment has been laid down. In the light of the legal principles laid down herein above, we proceed to consider the individual cases of the applicants herein.

16. Common material is that, in a note left by the deceased, the names of all the applicants are disclosed as lenders and some amounts due to them. In case of Hemant Balasaheb Jadhav (Cri. Appln No. 3856/2017), after going through the entire record, we do not find any material against him except his name having been written by the deceased in the chit left behind by him. Said chit shows that his name has been scored and the word Patsanstha has been written against the outstanding amount of Rs.50,000/-. Mere advancing a loan or making any demand for repayment of the same will not attract the ingredients of the Section 306 of IPC. Hence, his application for quashing of FIR deserves to be allowed.

17. In case of Santosh Prabhu Chavan (Cri. Appln No. 4119 of 2017), as per note of the deceased amount of Rs. 1.00 lakh was advanced by him to the deceased. The bank statement of the deceased however shows payments of large amount were made by the deceased to him regularly. The deceased was having accounts in Jankalyan Urban Coop. Bank, Kalamb, which shows following payment transactions by Cheque to the applicant Santosh Chavan.

Sr. No.	Cheque No. & Dt.	Amount
1	154021, 17.10.2014	Rs. 9200/-
2	154022, 24.12.2014	Rs. 18,000/-
3	154023, 17.01.2014	Rs. 33,000/-
4	154024, 07.04.2015	Rs. 21,000/-
5	158572, 24.05.2016	Rs. 68,700/-
	Total	Rs. 1,49,900/-

18. The following cheques presented by Santosh Chavan were dishonoured.

Sr. No.	Cheque No. & Dt.	Amount
1	158566, 10.09.2015	Rs. 20,000/-
2	158567, 03.10.2015	Rs. 20,000/-
3	158568, 04.11.2015	Rs. 20,000/-
4	158569, 01.03.2016	Rs. 15,000/-
5	158570, 22.04.2016	Rs. 15,000/-
6	158571, 10.05.2016	Rs. 38,400/-
	Total	Rs. 1,28,400/-

19. The cheque numbers referred above show continuity which indicates a strong probability that Santosh must have obtained blank cheques from the deceased. The amounts repaid per month are huge compared to the loan shown by the deceased in the chit. There is a continuity of recovery of amounts by Santosh from the deceased upto 24.05.2016. The deceased unfortunately is not available for leading evidence and the prosecution has to rely on the circumstantial evidence. The circumstance regarding huge payment made by the deceased to Santosh regularly and presentation of so many cheques of continuous numbers even after dishonour thereof is highly suspicious and is required to be explained by Santosh Chavan. In absence of any explanation by Santosh Chavan, these facts infer persistent harassment by Santosh Chavan by huge amount of interest as against small amount of loan and the loan amount still remains outstanding. Charging of exorbitant interest brings depression and since Santosh Chavan must be having blank cheques signed by the deceased, it would certainly bring depression and a situation where the deceased might have been left with no alternative but to commit suicide to escape from this extortion.

20. These *prima facie* observations are made at this stage for deciding this application only.

21. It is certain that, these facts indicate that it is not a case of clear absence of material against the applicant Santosh Chavan. At the stage of quashing of FIR, the Court cannot go into the exercise of appreciating the material. The facts appearing on the papers are to be accepted as true. If the applicant has any defence, he can establish it at appropriate stage but this is not a fit case to quash FIR against him. Hence, the application for quashing of FIR deserves to be rejected as against him.

22. In case of Ranjeet Dagdu Chavan (Cri. Appln No. 3332/2017), learned APP and learned Advocate for respondent No. 2 have strongly opposed the application of this applicant. The record shows that, Ranjeet is only the authorized money lender. The chit left by the deceased shows that amount of Rs. 25,000/- was payable to Ranjeet. However, the statements of the witnesses recorded and the Call Detail Record (CDR) show that Ranjeet had made persistent efforts for recovery. CDR discloses Ranjeet Chavan's Cell No. 9921637333. During the period from 01.05.2016 to 01.06.2016, he made 12 calls to deceased-Balaji. Out of the said calls, three calls were made on 01.06.2016 when the deceased consumed insecticide. Those were made at 09:58 hrs., 14:41 hrs., and 20:02 hrs. The

record discloses that, within short time after the last call, the deceased has consumed insecticide. It is apparent from the facts that after consumption of insecticide, the deceased had given a ring to Vikas Londhe at 08:36 pm., and Vikas has given him a ring at 08:42 pm. Vikas Londhe has taken him to the hospital at 09:15 pm. Thereafter the deceased consumed poison between 08:02 to 08:30 p.m. Apart from CDR, there are statement of witnesses against Ranjeet Chavan. There is a material to show that, on 26.05.2016 i.e. 5 days before the incident of the consumption of insecticide, he had abducted the deceased to Ujani Tanda, which is 45 kms from Latur. CDR supports this allegation. There are statements to show that, the deceased was wrongfully confined by Ranjeet Chavan and thereafter there were continuous calls by Ranjeet Chavan to deceased.

23. The statement of Dr. Bharti shows that, when Balaji Shinde was admitted in hospital and injection was given to him, he became violent and was talking irrelevant but he was consistently stating that he would pay money later.

24. The maternal uncle of the deceased has given a statement that, Ranjeet had called deceased and Vikas Londhe to Latur and they asked him how much amount he should pay to them upto to 6th June.

Thereafter, Ranjeet gave phone call to Vikas and told him that deceased should not be left and he should be brought to Ujani. Thereafter, deceased Balaji & Vikas had gone to Ujani. When maternal uncle gave a phone call, deceased could not disclose the facts as the applicant Ranjeet was sitting beside him. He and his brother have given statement that the applicant had confined the deceased and the deceased had given him a ring to make inquiry whether he would advance him any money. The deceased was frightened and was requesting him to somehow take him out of the situation. There is statement of one more person who had seen deceased Balaji Shinde and Vikas at Ujani on 16.05.2016. When he made inquiry with him he was told not to stop there and leave the spot. At that time, the deceased was frightened and could not tell him his difficulties. The deceased had told the witnesses that the applicant Ranjeet had wrongfully confined him in one room and he was afraid that if he would not pay the money, he would be assaulted. We find that, this is not a case of no material against the applicant. There is material to suggest that the applicant Ranjeet Chavan had subjected the deceased to persistent harassment by demands and even taking coercive steps of wrongful confinement. The deceased went into depression with apprehension that the applicant would assault him if money would not be paid. In the light

of this material, we hold that this is not a fit case for invoking the powers u/s 482 of Cr.P.C. in favour of the applicant Ranjeet Chavan and his application deserves to be rejected.

25. In case of Vikas S/o Nagnath Londhe (Cri. Appln. No. 2967 of 2017), according to Police and respondent No. 2, the material against Vikas Londhe and Ranjeet Chavan is the same. There is CDR showing that, 14 calls were made to deceased by Vikas Londhe during 03.05.2016 to 08.05.2016, while the deceased made 8 calls to Vikas, all are old calls except 1 made by the deceased on 01.06.2016 at 08:36 pm after consumption of poison. There is allegation that, on 26.05.2016 Vikas had joined Ranjeet Chavan to abduct the deceased to Ujani. As per the chit left by the deceased, amount of Rs. 25,000/- was payable to Vikas Londhe.

26. After carefully considering the material on record, we find that the material against this applicant is quite different from the material against Ranjeet. The most material fact is that, after consumption of insecticide, the deceased gave a ring to Vikas for seeking his help and requested him to take him to the hospital. As per hospital record, Vikas had brought deceased - Balaji to the hospital at 09:15 pm. The material discloses that the deceased Balaji

was a close friend of Vikas Londhe and Vikas had accompanied him on 26.05.2016 to Ujani as a friend and not as an abductor. Vikas had purchased medicines for the deceased. The only allegation against applicant Vikas is that he had accompanied deceased to Ujani where Ranjeet had called the deceased. The statements do not disclose that Vikas used force to take the deceased to Ujani. Vikas was helping the deceased to collect some amount which could be paid to Ranjeet and the deceased could be wriggled out of the situation. The allegations of wrongful confinement are against Ranjeet Chavan. There were no calls between the deceased and Vikas Londhe from 09.05.2016 to 31.05.2016. The fact that the deceased called Vikas for taking him to the hospital and Vikas took him to the hospital shows that it is inherently improbable that Vikas would subject the deceased to harassment and create a situation for him to drive him to commit suicide. We, therefore, find that, the material on record shows that, it does not make out ingredients of Section 306 r/w 34 of IPC against Vikas Londhe. Hence, application of Vikas Londhe deserves to be allowed. Hence, the following order.

ORDER

[I]. Criminal Application No. 3332/2017 presented by Ranjeet Chavan and Criminal Application No. 4119/2017 of Santosh S/o Prabhu Chavan are rejected.

[II] Criminal Application No. 2967 o 2017 presented by Vikas Londhe and Criminal Application No. 3856 of 2017 filed by Hemant Balasaheb Jadhav are allowed.

[III] FIR registered at C.R. No. 356/2016 at MIDC Police Station, Latur for offence punishable u/s 306 r/w 34 of the Indian Penal Code is quashed to the extent of applicants namely; Vikas S/o Nagnath Londhe and Hemant S/o Balasaheb Jadhav.

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

[A. M. DHAVALE]
JUDGE

[S. S. SHINDE]
JUDGE