

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

CRIMINAL APPLICATION NO. 7000 OF 2016

Sham S/o Ramratan Kabara
Age : 38 years, Occ : Business,
R/o New Bhagya Nagar, Latur,
Tq. & Dist. Latur.

..PETITIONER

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, Occ : Agri.,
R/o Shrinagar, Latur MIDC,
Tq. & Dist. Latur.

..RESPONDENTS

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Advocate for petitioner : Mr.D.A. Mane holding
for Mr. N.R. Pawade
APP for Respondent/State : Mr. S.B. Yawalkar
Advocate for respondent no.2: Mr.M.S. Shaikh

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**CORAM : S.S. SHINDE &
K.K. SONAWANE, JJ.
DATE : 24th February, 2017**

JUDGMENT : (PER S.S. SHINDE, J)

This application is filed with the
following prayer :-

B. This Criminal application may kindly be allowed and FIR dated 14.10.2016, in Crime No.356/2016 registered with MIDC Police Station, Latur, Tq. & Dist. Latur, under section 306 r/w 34 of the Indian Penal Code may kindly be quashed and set aside.

3. The learned counsel appearing for the applicant submits that, even if the allegations in the First Information Report are taken at its face value and read in its entirety, the ingredients of the alleged offences have not been attracted. The alleged offences have not been disclosed against the applicant. The wife of deceased Balaji Shinde earlier filed First Information Report, wherein there are no allegations against the present applicant. Even in the First Information report, neither the applicant is named nor any specific allegations are made against him. It is submitted that, the First Information Report is lodged belatedly after

four months of the alleged incident. Therefore, he submits that, the First Information Report deserves to be quashed to the extent of the applicant.

4. On the other hand, the learned A.P.P. appearing for respondent-State and the learned counsel appearing for respondent no.2, relying upon the statement of the witness namely Shri Mayur Dhanajirao Thorat and supplementary statement of Shri Balu @ Parmeshwar Maroti Mali recorded on 15th October, 2016, submit that, the name of the applicant is mentioned by those witnesses stating therein that, the applicant used to visit the house of the parents of deceased Balaji Shinde and also the shop of Shri Mayur Dhanajirao Thorat for recovery of money given as hand loan to deceased Balaji Shinde. Therefore, they submit that, this Court may not entertain the application.

5. We have considered the submissions advanced by the learned counsel appearing for the applicant, the learned A.P.P. appearing for respondent – State and the learned counsel appearing for respondent no.2 at length. With their able assistance, we have perused the pleadings in the application, grounds taken therein, annexures thereto, the allegations in the First Information Report, other documents placed on record and investigation papers made available for perusal. Upon perusal of the copies of the documents placed on record by the applicant at Exhibit `B'/Page 24, it appears that one Pooja Balaji Shinde addressed a letter/complaint to the Police Inspector, MIDC Police Station, Latur on 3rd June, 2016. It is stated in the said complaint that, on 1st June, 2016 at about 7.30 to 8, her husband went to his parents house requesting them for partition of his share in the ancestral

property, however, Shri Anantram Shinde, father of deceased Balaji, mother Shakuntalabai Shinde and brother Satosh Anantram Shinde mercilessly bet him and administered poison, and thereafter without informing her they took Balaji Shinde to Galaxy Hospital near Ashok Hotel, Latur. On 3rd June, 2016, her husband Balaji died. It is stated in the said complaint that, there were injury marks on the head and allover body of Balaji. Therefore, she had complaint against the parents and brother of the deceased Balaji, and therefore, the necessary enquiry/ investigation should be caused.

6. It further appears that, brother of Balaji namely Santosh lodged First Information Report on 13th October, 2016 alleging therein that his brother Balaji committed suicide on 1st June, 2016 due to harassment by the various persons mentioned

in the First Information Report on account of recovery of debt amount from said Balaji. Upon careful perusal of the allegations in the First Information Report, it appears that, the name of the applicant is not mentioned. There is no allegations against this applicant. It is only during the course of investigation, one Shri. Mayur Dhanajirao Thorat and Balu @ Parmeshwar Maroti Mali have named the present applicant. It is mentioned in their statements that, he used to visit the shop of Mayur Dhanajirao Thorat and house of parents of Balaji for recovery of hand loan given to said Balaji and the said contention of Shri Mayur Dhanajirao Thorat is supported by the supplementary statement of Balu @ Parmeshwar Maroti Mali and except this we do not find any material collected by the Investigating Officer against the applicant. It appears that Balaji committed suicide on 1st June, 2016 and in that respect already the

complaint was filed by the wife of deceased Pooja Balaji Shinde on 3rd June, 2016. Thereafter, belatedly after four months, the First Information Report is lodged by brother - Santosh.

7. As already observed, upon reading the allegations in the First Information Report in its entirety, neither the applicant is named nor any specific allegations are made against him. It is not necessary for us to give elaborate reasons, suffice it to say that, on considering the allegations in the First Information Report and also investigation paper, we are of the opinion that, neither the applicant intended or abated the commission of suicide by Balaji. In that view of the matter, keeping in view the exposition of law by the Supreme Court in the case of ***State of Haryana V/s Bhajan Lal*¹**, we are of the opinion that, the further

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continuation of investigation based on the F.I.R. bearing Crime No. 356/2016 against the applicant would be abuse of process of law and hence the First Information Report deserves to be quashed and set aside. Accordingly, the F.I.R. bearing Crime No. 356 of 2016 registered with MIDC Police Station, Latur, Tq. & Dist. Latur under Section 306 read with section 34 of the Indian Penal Code is quashed and set aside to the extent of the present applicant. We make it clear that, the observations made hereinabove are, prima facie, in nature and only confined to the adjudication of the application of the present applicant.

(K.K. SONAWANE, J.)

(S.S. SHINDE, J.)

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