

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.762 OF 2017

1. Nirmala wd/o Rajendra Kabade,
2. Prakash s/o Ramkrushna Gawande,
Both R/o Near Tilak Maidan, Khamgaon, Tq. Khamgaon, Dist. Buldana

-vs-

State of Maharashtra, Thr. PSO, PS Khamgaon City, Tq. Khamgaon, Dist. Buldana

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. J. Thakkar, Advocate for applicants.
Ms Shamsi Haider, APP for non-applicant/State.

CORAM : A.S.CHANDURKAR, J.

DATE : November 07, 2017

Heard.

The applicants apprehend their arrest in connection with Crime No.386/2017 registered with Police Station Khamgaon City, Dist. Buldana for the offence punishable under Sections 504, 506, 306 read with Section 34 of the Indian Penal Code and Sections 32 and 33 of the Maharashtra Money Lending Regulation Act, 2014.

As per the First Information Report lodged by one Devendra, he alongwith his brother Narendra and father Shriram were staying together. His father had retired from service. Both the brothers were running a paan shop. The informant had borrowed a sum of Rs.50,000/- from applicant No.1 which was repayable with 12% interest. Though the amount borrowed was repaid, the applicant No.1 as well as applicant No.2 who is her brother used to continuously harass them. On 23/09/2017 the applicants brought stamp paper of Rs.100/- and prepared a notarised document by virtue of

which the paan shop was transferred in the name of applicant No.2. Hence on 24/09/2017 both the brothers and their father consumed poison. On this basis report came to be lodged. In the meanwhile all the three succumbed to death.

It is submitted on behalf of the applicants that applicant No.1 is a widow. The allegations against both the applicants are made with a view to avoid repayment of the amount borrowed. After the offence was registered certain documents were seized from the house of applicant No.2 and therefore their custodial interrogation is not warranted.

The application is opposed by the learned Additional Public Prosecutor by relying upon the reply. It is submitted that the dying declarations have been recorded in which present applicants have been implicated as the reason for consuming poison.

Perused the police papers. Dying declarations dated 24/09/2017 of all the three victims have been recorded in which they have clearly implicated both the applicants as having given threats and having transferred the paan shop in the name of applicant No.2. Similarly a letter written by all the three victims has also been seized which also implicates the applicants. Considering the seriousness of the offence, I am not inclined to exercise discretion in favour of the applicants. Application is rejected and disposed of.

Needless to state that interim order stands vacated.

JUDGE