

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 315 OF 2008

1] Govind S/o Bhigoji Kowale,
Age: 57 years, Occu: Service,
R/o Yewali, At present R/o Islapur,
Tq. Hadgaon, District: Nanded.

2] Datta S/o Govindrao Kowale,
Age: 16 years, Occu: Student,
R/o Yewali, At present R/o Islapur,
Tq. Hadgaon, District: Nanded.
Under guardianship of
Champatrao S/o Bhogaji Kowale.

... APPLICANTS

VERSUS

1] The State of Maharashtra,
Through Police Station Officer,
Police Station, Village Tamsa,
Tq. Hadgaon, District: Nanded.

2] Laxman Poushetti Rajure,
Age: 55 years, Occ: Agri.,
R/o. Yewali, Tq: Hadgaon,
Dist: Nanded.

... RESPONDENTS

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Mr. N. P. Patil Jamalpurkar, Advocate for Applicants.
Mr. S. J. Salgare, APP for Respondent No.1 / State.
Mr. V. P. Kadam, Advocate for Respondent No.2.

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**CORAM : T. V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 19th July, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. The application is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.67 of 2007, registered with Tamsa Police Station, Taluka Hadgaon, District Nanded, for the offence punishable under Section 306 read with 34 of the Indian Penal Code.

2 Both the sides are heard.

3 Applicant No.1 is the father of Applicant No.2. Applicant No.2 was juvenile on the date of registration of crime and it is submitted that the case is filed against him in Juvenile Court.

4 The crime is registered on the basis of report given by Respondent No.2 Laxman against the Applicants. Deceased Gajanan was the son of Laxman. It is the contention of first informant that the present Applicants had made false allegations against Gajanan that he had committed theft of mobile handset of the Applicants. One meeting was called in the village by the Committee constituted in village by State Government like *Tanta Mukti*

committee. Allegations are made that even in the meeting, the Applicants were insisting that Gajanan had committed theft. Gajanan was present in the house of first informant at the relevant time. He was aged about 20 years. When meeting was going on, Chatura, sister of deceased came to the place of meeting and informed that Gajanan had consumed poison. All the persons rushed to the house of Laxman. It is the contention of Laxman that Gajanan informed that he was assaulted prior to the meeting by the present Applicants and they had given threat of police case and due to that harassment, he had consumed poison. He said that he had not committed theft but false allegations are made against him. Attempt was made to save his life, but on the way to the hospital, he died on 9th December, 2007 at 04:30 pm. Incident had taken place after 10:00 am on that day. Laxman gave FIR on 13th December, 2007 and crime came to be registered.

5 Learned counsel for Applicants submitted that delay was caused in giving FIR and there is possibility of concoction. Though delay is relevant factor in the proceeding like present one, only on the basis of delay of 3-4 days, FIR cannot be quashed and set aside.

Police papers include statements of witnesses and they show that Gajanan had made disclosure after taking poison to those persons of aforesaid nature. Death took place due to poisoning. This record can be used and witnesses can give evidence on oral dying declaration given by Gajanan. Thus, it cannot be said that false allegations are made against the Applicants. This Court holds that it is not possible to quash and set aside the FIR given against the Applicants. In the result, the following order is passed:

ORDER

- I. The application is dismissed.
- II. Interim relief is vacated.
- III. Rule is discharged.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]