

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

CRIMINAL WRIT PETITION NO. 165 OF 2018

Bhaskar Namdev Chavan ..PETITIONER

VERSUS

State of Maharashtra ..RESPONDENT

WITH

CRIMINAL WRIT PETITION NO. 11 OF 2017

Rajendra Vitthal Patil ..PETITIONER

VERSUS

State of Maharashtra ..RESPONDENT

WITH

CRIMINAL WRIT PETITION NO. 1109 OF 2016

Ashok Bhiva Pawar ..PETITIONER

VERSUS

State of Maharashtra ..RESPONDENT

WITH

CRIMINAL WRIT PETITION NO. 119 OF 2017

Naresh Natthu Sapkale ..PETITIONER

VERSUS

State of Maharashtra ..RESPONDENT

Mr.P.B. Patil, Advocate for petitioners in CRWP/165/18,
CRWP/11/17 and CRWP/119/17.

Mr.R.M. Deshmukh, Advocate for petitioner in CRWP/1109/16.

Mr. S.B. Joshi, A.P.P. for respondent - State.

CORAM : SANGITRAO S. PATIL, J.

DATE : 24th JULY, 2018

ORAL JUDGMENT :-

Rule, made returnable forthwith. Heard finally with the consent of both the sides.

2. The petitioners have challenged the orders passed by the learned Additional Sessions Judge, Jalgaon in Sessions Case no. 246 of 2012 whereby their applications for discharge of the offences punishable under Sections 306, 294, 500, 504 read with Section 34 of the Indian Penal Code came to be rejected.

3. The deceased - Suresh Budha Ahire, Police Head Constable attached to Police Headquarter, Jalgaon committed suicide by hanging himself on 12th March, 2006. Prior to that he sent a letter to the Superintendent of Police, Jalgaon on 11th March, 2006 giving the names of about 15 accused persons and informing that they were defaming him and making certain allegations against him, due to that unbearable defamation, he was going to commit suicide.

4. The brother of the deceased - Suresh lodged F.I.R. in Police Station Zilla Peth, Jalgaon on 18th March, 2006 against all those, who were named in the letter dated 11th March, 2006, which was treated as suicide note of the deceased - Suresh, on the basis of which the above numbered crime came to be registered. After completion of investigation, all the 15 persons came to be charge-sheeted before the learned Magistrate, who, in turn, committed the case to the Court of Session, which was assigned to the learned Additional Sessions Judge, Jalgaon for trial.

5. The petitioners filed discharge applications before the learned Sessions Judge on the say that they never instigated or abetted the deceased - Suresh to commit suicide. There is absolutely no material against them to connect them with the above mentioned crime. The learned Additional Sessions Judge heard both the sides and rejected the applications filed by the present petitioners.

6. The learned Counsel for the petitioners submit

that the main allegations in the suicide note are against accused nos. 1, 2 and 3. There are similar allegations made against accused nos. 8 and 14 as that of the present petitioners. Accused nos. 1, 2, 3, 8 and 14 have been discharged by this Court vide orders dated 14th January, 2015, 10th March, 2015 and 27th January, 2016. The learned Counsel submit that when the accused, against whom there were more serious allegations than that of the present petitioners, have been discharged by this Court, the petitioners also are entitled to get the same relief. They submit that the facts of the case do not disclose prima facie that the petitioners abetted the deceased – Suresh to commit suicide. The learned Counsel for the petitioners, therefore, pray that the petitioners may be discharged of the above mentioned offences.

7. The learned A.P.P. opposed the petitions. He submits that from the contents of the suicide note, prima facie, case is disclosed against the present petitioners. He supports the impugned orders and prays that the Criminal Writ Petitions may be dismissed.

8. Perused the suicide note. The main allegations are against accused no.1 – Prabhakar Jadhav. The other accused persons are alleged to have defamed the deceased – Suresh on some ground or other. The similar allegations are made against the present petitioners. Even if these allegations are accepted as they are, prima facie, it cannot be said that these petitioners abetted the deceased – Suresh to commit suicide. The allegations against these petitioners are very vague and general. It seems that the deceased – Suresh took sufficient time to think over his course of action prior to writing the suicide note. It was sent to the Superintendent of Police, Jalgaon on 11th March, 2006. Thereafter also he took about one day for committing suicide. As such, there is no proximity in the alleged act of defamation as alleged against the petitioners and the suicide of the deceased – Suresh. If that be so, it cannot be said that the present petitioners abetted the deceased – Suresh to commit suicide.

9. As stated above, accused nos. 1, 2, 3, 8 and 14, against whom there are rather more serious allegations made by the deceased – Suresh as compared to the

allegations made against the present petitioners, have been discharged by this Court. I do not find any reason to take any contrary view, in the facts and circumstances of the case, so as to refuse the relief of discharge to the present petitioners. In the circumstances, these Criminal Writ Petitions will have to be allowed. Hence the following order :-

ORDER

- (i) Criminal Writ Petitions are allowed.
- (ii) The impugned orders are quashed and set aside.
- (iii) The petitioners are discharged of the offences punishable under Sections 306, 294, 500 and 504 of the Indian Penal Code.
- (iv) Their bail bonds are cancelled.
- (v) The petitioners are set at liberty.

- (vi) Rule is made absolute accordingly.
- (vii) Criminal Writ Petitions are disposed of.

[SANGITRAO S. PATIL]
JUDGE

SSD