

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

CRIMINAL APPLICATION NO. 1024 OF 2016

Balaprasad S/o Dwarkadas Mundada,
Age : 51 years, Occu. Business,
R/o. Sonpeth, Taluka – Sonpeth,
District – Parbhani.

... APPLICANT
(Ori. Accused)

VERSUS

1] The State of Maharashtra,
Through Police Station Officer,
New Mondha Police Station, Parbhani,
Taluka Parbhani, District Parbhani.

2] Kedar S/o Subhashrao Walsetwar,
Age : 35 yrs, Occ: Business,
R/o. Sonpeth, Taluka – Sonpeth,
Dist. Parbhani.

Ori. Complainant

... RESPONDENTS

WITH

CRIMINAL APPLICATION NO. 386 OF 2016

1] Sanjay S/o Bhalchandra Walsetwar,
Age : 41 years, Occu. Business,
R/o. Sonpeth, Taluka – Sonpeth,
District – Parbhani.

2] Santosh S/o Bhalchandra Walsetwar,
Age : 36 years, Occu. Business,
R/o. Sonpeth, Taluka – Sonpeth,
District – Parbhani.

... APPLICANTS
(Ori. Accused)

VERSUS

- 1] The State of Maharashtra,
Through Police Station Officer,
New Mondha Police Station, Parbhani,
Taluka Parbhani, District Parbhani.
- 2] Kedar S/o Subhashrao Walsetwar, **Ori. Complainant**
Age : 35 yrs, Occ: Business,
R/o. Sonpeth, Taluka – Sonpeth,
Dist. Parbhani. **... RESPONDENTS**

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Mr. Swapnil S. Rathi, Advocate for Applicants, in both the matters.

Mr. S. J. Salgare, APP for Respondent No.1 / State, in both the matters.

Mr. S. G. Rudrawar, Advocate for Respondent No.2, in both the matters.

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**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 23rd October, 2018.

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

. Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2 Both the proceedings are filed under Section 482 of the
Code of Criminal Procedure for relief of quashing of FIR No.251 of
2015, registered with New Mondha Police Station, District Parbhani,
for the offence punishable under Section 306 read with 34 of the

Indian Penal Code.

3 Crime is registered on the basis of report given by Respondent No.2. Deceased, Subhash was father of the first informant. He left home on 12th October, 2015 at 09:30 am by saying that he was proceeding to *Tridhara* for having *Darshan* and after that he was not seen alive by the members of his family. After making some search, they gave missing report to police on 13th October, 2015. On 15th October, 2015, it was realized that deceased had booked Room No.209 in Rohit Inn Lodge of Parbhani and the door was in closed condition from inside. After receiving this information, everybody rushed to that lodge. After seeing the entry in register, the first informant and other relatives realized that the room was booked by their father. Then in the presence of police, door of the room was forcibly opened.

4 In that room, there was the dead body of Subhash and it was in decomposed condition. Postmortem was conducted on the dead body and it became clear that he had consumed poison to commit suicide. Police had already taken over suicide notes, many papers, which were found with the dead body. When the dead body

was found on 15th October, 2015, first informant, Kedar approached police on 29th October, 2015 and gave report.

5 This Court has gone through the papers of investigation. Applicants of Criminal Application No.386 of 2016 are nephews of the deceased and Applicant of Criminal Application No.1024 of 2016 was known to deceased and their names are given in suicide notes. It appears that on 12th October, 2015, deceased wrote so many suicide notes addressed to his son, to Superintendent of Police, to PSI of Sonpeth Police Station, to Judicial Magistrate First Class, Sonpeth, to District Collector, to District Judge, to one Raosaheb Deshmukh, to one Sudhir Bindu reporter, to Tahsildar, to Ex-President of Municipal Council, to one Satishrao Deshmukh reporter, to Advocate Chaudhari of Gangakhed and to Chief Officer, Municipal Council, Sonpeth.

6 In all the suicide notes, he mentioned that he had no grievance against his family members including his son, but he has grievance against his nephews, Applicants. He was feeling that they were using black magic to harass him and they were harassing him and due to that he had taken the decision to commit suicide. He has mentioned that he had lost his house and his ration shop and he was

not able to take possession of those properties and due to that he was frustrated. He has mentioned that in Court he had given in writing and he had signed on compromise, but that was done due to pressure of his brother and nephews. He has mentioned that he had given Rs.14 lac to Balaprasad, Applicant of Criminal Application No.1024 of 2016 and this amount was not returned by Balaprasad and Balaprasad had duped him. He has mentioned that as there was nothing in writing, it was not possible for him to recover the money from Balaprasad. He has mentioned that he sustained loss in transaction made in respect of petrol pump. He has mentioned that he had sustained loss in transaction of purchase of two flats and he was deceived.

7 The submissions made and record show that in the year 2002, the dispute which was between the deceased and his brother was settled and in accordance with the compromise terms, decree was prepared by the Civil Court. The incident took place after about 14 years of the said compromise and there are allegations of aforesaid nature against the nephews. Admittedly, there is no record in respect of transaction with Balaprasad. It appears that the deceased was feeling that everybody had deceived him. It is not the

contention of the son, who filed FIR that prior to recovery of suicide notes, there was any incident involving the Applicants of the two proceedings and the deceased like quarrel. It can be said that the deceased had sustained loss in many transactions and due to that he was frustrated. He has tried to blame the Applicants for the loss sustained by him. Even if those allegations are accepted as they are, they cannot make out offence of abetment of suicide. Thus, nothing can be achieved if the Applicants are made to face the trial for the aforesaid offence. In the result, the following order is passed:

ORDER

- I. Both the applications are allowed.
- II. Relief is granted in terms of prayer clause (C).
- III. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]

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