

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

Criminal Application No.1647 of 2011

- 1) Ramanna s/o Hanappa Choudki,
Age 66 years,
Occupation: Service,
(Vice President Works KEL)
R/o Chandan Estate,
Burudgaon Road, Ahmednagar.
- 2) Shashikant s/o Shivanand Gulve,
Age 47 years,
Occupation: Service,
(Senior Manager HR)
R/o "Shivbhusan", Plot No.05,
Near Dwarkanagari,
Borude Mala,
Balikaashram Road,
Ahmednagar.
- 3) Kishor s/o. Shankar Wagh,
Age 40 years,
Occupation: Service,
R/o Plot No.30, Ambika Nagar,
Kedgaon, Ahmednagar.
- 4) Vithal s/o. Sambhaji Devghade,
Age 51 years,
Occupation: Service,
R/o House No.58, Lande Galli,
Nalegaon, Ahmednagar.
- 5) Machindra s/o. Bhanudas Perne,
Age 52 years,
Occupation: Service,
R/o House No.15,
Behind Sarda College,
Kawade Nagar, Ahmednagar.

- 6) Shankar s/o. Fakira Surawase,
Age 45 years,
Occupation: Service,
R/o Shahu Nagar
Near Surana Kirana Store,
Kedgaon, Ahmednagar.
- 7) Sunil s/o. Mahadu Khatade,
Age 55 years,
Occupation: Service,
R/o 307, Khatade Niwas,
Rangar Galli, Ahmednagar.
- 8) Bhaskar s/o. Raghunath Mahadik,
Age 51 years,
Occupation: Service,
R/o ADCC Bank Colony,
Near 5 Godowns, Kedgaon,
Ahmednagar.
- 9) Sanjay s/o Pandurang Londhe,
Age 45 years,
Occupation: Service,
R/o Sonewadi Road,
Londhe Mala, Kedgaon,
Ahmednagar.
- 10) Ramchandra s/o Ahilaji Gunjal,
Age 51 years,
Occupation: Service,
R/o, Patil Colony, Eknath Nagar,
Kedgaon, Ahmednagar.
- 11) Bhanudas s/o. Kisan Magar,
Age 54 years,
Occupation: Service,
R/o Lal Gulab Colony,
Pipe Line Road, Savedi,
Ahmednagar.
- 12) Vijendra s/o Ramdas Wadak,
Age 35 years,
Occupation: Service,

R/o Patil Colony, Eknath Nagar,
Kedgaon, Ahmednagar.

- 13) Isral Umar Shaikh,
Age 50 years,
Occupation: Service,
R/o 175, Mominpura,
Camp Bhingar, Ahmednagar. .. **Applicants.**

Versus

- 1) The State of Maharashtra.
- 2) Lata w/o Madhukar Vairal,
Age 40 years,
Occupation: Housewife,
R/o House No.140,
Madhavnagar Row-Housing
Society, Shahunagar, Kedgaon
District Ahmednagar. .. **Respondents.**

Shri. R.N. Dhorde, Senior Advocate, instructed by Shri.
V.S. Bedre, Advocate, for applicants.

Ms. V.S. Choudhari, Additional Public Prosecutor, for
respondent No.1.

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

Date: 1 AUGUST 2018

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

- 1) The proceeding is filed under section 482 of the
Code of Criminal Procedure for the relief of quashing of
F.I.R.No.I-70/2011 registered with Kotwali Police Station

Ahmednagar for offence punishable under section 306 read with 34 of the Indian Penal Code.

2) The crime is registered on the basis of report given by one Lata. Her husband Madhu Vairal was working as labour in Kinetic Engineering Company Ahmednagar. He used to disclose that some persons from the company were harassing him and they were particularly the superior officers of the company and the office bearers of Bhartiya Kamgar Sena, one Union.

3) The incident took place on 24-2-2011. On that date the deceased left home for the company. He was expected to return home at 11.30 a.m. by taking half day's leave but he did not return. One worker from Kinetic Company came to the residential place of the first informant and informed that her husband was admitted in a hospital. Then she went to the hospital, she learnt that on that day there was some quarrel between her husband on one side and the applicant Nos.1 and 2 Choudki and Gulve on the other and after that, the deceased had consumed poison for committing suicide. When the report

was given the deceased was alive. When he was admitted in the hospital one chit was recovered from his clothes in which he had given reason for his suicide and he had blamed Choudki and Gulve. Names of the office bearers of Bhartiya Kamgar Sena were not taken. He had made allegations that they were also harassing him. In the suicide note he had mentioned that as he was not ready to sign on the settlement which was signed by the Union, Kamgar Sena there was harassment to him. The harassment was of the nature of changing the place of work, changing the job and asking him to give more output as per the settlement signed by the Union and they were giving threats to him of action. He had also disclosed that Gulve was calling him repeatedly on every day and he used to ask the deceased to sign on the settlement.

4) The material collected by police shows that one Union had made settlement with the company but other union was not ready for the settlement. There are allegations made by other employees also of similar nature before police. As there is suicide note and after leaving the suicide note the husband of the first informant

died, this Court holds that it cannot be said that there is no material at all at least as against Choudki and Gulve, applicant Nos. 1 and 2. However, same cannot be said as against remaining applicants. It was submitted that they are office bearers of the Union. Ordinarily the Union is under control of one or two persons. The deceased did not mention their specific names. There are vague allegations that all the office bearers of the Union were harassing him and so this Court holds that it is not desirable to direct the office bearers to face the trial as there are vague allegations made in the suicide note.

5) The learned Senior Counsel who argued the matter submitted that relief in favour of applicant Nos.1 and 2 also needs to be granted as they were the senior officers and it cannot be said that due to steps which they were taking to see that the more output is given, they abated the suicide. The learned Senior Counsel placed reliance on some observations made by the Apex Court and this High Court (Nagpur Bench) in the cases like :

(1) **AIR 2018 SC 2659 (Vajnath Kondiba Khandke v. State of Maharashtra);**

- (2) **(2010) 8 SCC 628 (Madan Mohan Singh v. State of Gujarat);**
- (3) **(2005) 2 SCC 659 (Netai Dutta v. State of W.B.);**
- (4) **AIR 2015 SC 3351 (State of Kerala v. S. Unnikrishnan Nair).**
- (5) **2013(3) Mh.L.J. (Cri.) 418 (Binod vs. State of Maharashtra)** Bombay High Court (Nagpur Bench);
- (6) **2016 ALL MR (Cri) 4328 (Dilip Ramrao Shirasao vs. State of Maharashtra)** Bombay High Court (Nagpur Bench).

6) In all the aforesaid cases this Court and the Apex Court have discussed the requirements for proving abatement of suicide in relation to provision of section 107 of the Indian Penal Code. There cannot be dispute over the propositions made. In the present matter there are allegations against accused Nos.1 and 2 which are specific. There is allegation that there was continuous harassment from applicant Nos.1 and 2. There was also reason for harassment. Kinds of harassments are also mentioned in the suicide note. In view of these circumstances, this Court holds that, it cannot be said that circumstances were not created to compel the deceased to take such drastic step. The suicide note shows that no other alternative was left to the deceased than to take

such step. He consumed poison in the premises of the company and he left behind a suicide note. In view of these circumstances no relief can be granted in favour of applicant Nos.1 and 2.

7) In the result, the application of applicant Nos.1 and 2 stands dismissed. Rule is discharged in respect of them. Interim relief granted in favour of them is vacated.

8) The application of applicant Nos.3 to 13 is allowed. Relief is granted in favour of them in terms of prayer clause (B). Rule made absolute to that extent. Learned Senior Counsel requested for continuation of interim relief which was granted in favour of applicant Nos.1 and 2 for some time. The request is rejected.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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