

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1296 OF 2018

1. Helen Rani D/o Kulasekaran
Age: 45 years, Occ: Service
R/o Amrut Sai, Gold City,
Gut No. 41, Paithan Road,
Aurangabad.
2. Rachana D/o Nitin More
Age: 33 years, Occ: Service
R/o Kasliwal Marvel East
Building No. F, Flat No. 303
Beed BY-pass Aurangabad.

....Applicants.

Versus

1. The State of Maharashtra
Through Satara Police
Station Aurangabad
2. Suresh Madhavrao Wagh
Age: 45 years, Occ: Service
R/o Navnath Nagar, HUDCO,
T-POINT, Near S.B.O.A. School,
Aurangabad.

....Respondents.

Mrs. V.S. Ghanekar, h/f Mr. N.S. Ghanekar, Advocate for applicants

Mrs. D.S. Jape, APP for respondent No. 1/State.

Mr. A.S. Bayas, Advocate for respondent No.2.

**CORAM : T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 19/09/2018.**

JUDGMENT : [PER T.V. NALAWADE, J.]

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

2) The proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of F.I.R. No. 120/2018 registered with Satara Police Station, Aurangabad for offences punishable under section 306 r/w. 34 of Indian Penal Code. The report is given by respondent No. 2 Suresh Wagh.

3) Deceased Sachin was son of first informant and the deceased was aged about 19 years. He was studying in M.I.T. College, Aurangabad and he was doing B.Sc. Nursing Course. He was in first year of the course. On 10.4.2018 there was unit test. The deceased appeared in unit test and in exam hall, he was caught red handed when he was copying by using chits brought by him. Applicant No. 2 More was Supervisor in the hall and she took Sachin with the material brought for copying to the Principal of the College, applicant No. 1. Allegations are made that the Principal said to the deceased that he would be rusticated for six months and after that it will be necessary for him to again appear for the same subject. Allegations are made that Sachin made request to the Principal not to do so, but his act was not condoned. It is contended that Sachin then contacted his friend Shubham Rathi on mobile phone and informed that he was committing suicide due to aforesaid circumstances. He jumped from terrace, four storied building. He

was seriously injured and he succumbed to injuries within few hours. The report was given on 11.4.2018.

4) There is copy of SMS sent by Sachin to his friend and it shows that he informed the friend that he had indulged in malpractice in the examination and as action was anticipated, he was taking step like committing suicide. The transcript of the talk is also on record and that shows that he had requested his friend to convince properly to his parents. He had not blamed the applicants for suicide.

5) The learned counsel for respondent No. 2 first informant submitted that some procedure is given under Statute and Ordinances with regard to action which can be taken for malpractice in examination. He submitted that it was not open to applicant No. 1, the Principal to take such action and so, both the applicants need to be held liable.

6) The aforesaid submission made for first informant cannot be accepted. Though it is true that the action needs to be taken only after following the procedure laid down when such case is detected, when a person is caught red handed like the deceased, ordinarily consequences are informed to him. It cannot be said that applicant

No. 1 had taken decision at that time. It can be inferred that she had only informed the consequences. Such information cannot amount to abatement of suicide. Further, the deceased was at fault and there is possibility that he was feeling that it was difficult for him to face the parents and other attached ones. In view of these circumstances, this Court holds that it will be abuse of process of law, if the applicants are made to face the trial for aforesaid offences. In the result, following order.

ORDER

Application is allowed. Relief is granted to the applicants in terms of prayer clause "B". Rule is made absolute in aforesaid terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

SSC/

Salim
Shafi
Choudhari

Digitally signed
by Salim Shafi
Choudhari
Date:
2018.09.25
15:31:37
+0530