

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

CRIMINAL APPLICATION NO. 1639 OF 2018

Subhash S/o. Nanji Waghela,
Age : 58 years, Occ. Service,
(Assistant Sub-Inspector)
Traffic Branch, Ahmednagar,
R/o. Prabhudhanagar, Nagardevale,
Alamgir, Bhingar, Tq. & Dist. Ahmednagar.

... **APPLICANT**
(Original Accused)

VERSUS

1. The State of Maharashtra,
Through its Investigating Officer,
Bhingar Camp Police Station,
Ahmednagar, Tq. & Dist. Ahmednagar.

2. Dipak S/o. Omprakash Kandare,
Age : 30 years, Occu. Gym Trainer,
R/o. Nagar Club, Shahu Maharaj
Housing Society, House No.29,
Bhingar Tekadi, Bhingar,
Tq. & Dist. Ahmednagar.

... **RESPONDENT**
(Original Complainant)

...
Mr. N. B. Narwade, Advocate for Applicant.
Mrs. D. S. Jape, APP for Respondent No.1 / State.

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

DATE : 30th August, 2018.

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

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

2 The proceeding is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.225 of 2018, registered with Bhingar Camp Police Station, District Ahmednagar, for the offences punishable under Sections 306 read with 34 of the Indian Penal Code.

3 Respondent, Dipak Kandare has given report on the basis of which crime is registered. The record shows that process could not be served on Respondent No.2 as he had left the address and he was not available for service of process.

4 In FIR dated 27th April, 2018, Dipak has made allegations that his brother Mahesh committed suicide due to harassment from the present Applicant and others and due to filing of reports against Mahesh by the Applicant and his relatives. Dispute started on 20th March, 2018. On that day, Mahesh had quarrel with Abhilekh

Waghela and Dipraj Waghela. It is contended that threat of life was given to Mahesh and so he gave report against these two boys and N.C. was registered for the offences punishable under Sections 323, 504 etc. of the Indian Penal Code. On 8th April, 2018, the father of first informant and Mahesh had heart attack. The father was admitted in Dhooth Hospital, Ahmednagar on 11th April, 2018. The first informant and Mahesh used to visit the hospital. Allegations are made that on 15th April, 2018 at 09:30 pm, Mahesh came to the hospital and informed to first informant that Applicant, Subhash had given threat that he would teach a lesson to the first informant. According to the first informant, Mahesh was under tension due to the threat given by the present Applicant.

5 The incident in question took place on 16th April, 2018. On that day, Mahesh remained in his house and did not attend even the work. At 09:15 pm, the first informant came to the house from hospital and noticed that Mahesh was on bed and he was sleeping. Mother had given call to Mahesh and he was asked to take dinner, but he did not rise from the bed. At 10:45 pm, when the first informant was present in the hospital, his maternal uncle informed that Mahesh

had hanged himself and he was shifted to Shrideep Hospital. Mahesh was dead and then report was given on 27th April, 2018.

6 The present Applicant appears to be the father of Dipraj, boy with whom Mahesh had quarrel. If only due to the tension and harassment from the Applicant and his son and other boy, Mahesh had committed suicide, in ordinary course report would have been to police immediately after 16th April, 2018. Ten days delay was caused in giving the report and no explanation is given about that delay. It cannot be said that the aforesaid material can be used against the present Applicant to hold that he had created such a situation for the deceased that there was no alternative before the deceased than to commit suicide. The material is not sufficient to infer that the present Applicant abetted suicide committed by Mahesh. It will be unnecessary harassment and abuse of process of law if the present Applicant is asked to face the trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The application is allowed.

- II. Relief is granted in terms of prayer clause (B) only
to the extent of present Applicant.
- III. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]

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