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

**CRIMINAL APPLICATION NO. 3249 OF 2016**

01. Raziyabee W/o Rahim Shaikh,
Age: 59 years, Occ : Household,
R/o : Ansar Nagar, Latur,
Tq. & Dist. Latur.

02. Aatiya W/o Sajid Shaikh,
Age: 37 yeas, Occu : Household,
R/o. Abu Hasera Majid, Sarola Road,
Tq. & Dist. Latur. ... **APPLICANTS**
(Orig. Accused)

***V E R S U S***

01. The State of Maharashtra,
Through Police Station Officer,
M.I.D.C. Latur, Tq. & Dist. Latur.

02. Sachin S/o. Madhavrao Ingewad,
Age: 27 years, Occ. Service, as
Police Sub-Inspector, M.I.D.C.,
Police Station, Latur, Tq. & Dist. Latur. ... **RESPONDENTS**
(Resp. No.2 Orig. Complainant)

...

Mr. Suhas B. Ghute, Advocate for Applicants
Mrs. D. S. Jape, A.P.P. for Respondent/State.

…

*WITH*

**CRIMINAL APPLICATION NO. 6618 OF 2016**

Nawaz Ajgar Mirasi,
Age 28 years, Occ. Service,
in a Private Company,

R/o Girwalkar Nagar, Latur,
Tq. & District Latur. ... **APPLICANT**
(Orig. Accused)

***V E R S U S***

The State of Maharashtra,
Through Incharge Police Station
Officer, MIDC Police Station, Latur,
Tq. & Dist. Latur. ... **RESPONDENT**

...

Mr. A. S. Jadhav, h/f Mr. P. R. Katneshwarkar, Advocate for Applicant.
Mrs. D. S. Jape, A.P.P. for Respondent/State.

...

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

DATE : 24th August, 2018.

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

. Both the proceedings are filed for relief of quashing of FIR No.81 of 2016, registered with M.I.D.C. Police Station, Latur, for the offences punishable under Sections 314, 315, 201 read with 34 of the Indian Penal Code, Sections 5(2)(3) and (4) of the Maharashtra Termination of Pregnancy Act and under Section 6 of the Bombay Nursing Home Registration Act, 1971. The present Applicants are mother, sister and husband of the deceased, who died during induced

illegal abortion.

2 Both the sides are heard.

3 The crime is registered on the basis of report given by one Police Officer of the aforesaid police station. Information of A.D. report was received by this police station in respect of Rabia, wife of the Applicant from Criminal Application No.6618 of 2016 as the dead body of Rabia was brought to the Government hospital from a private dispensary. During the inquiry of A.D., the first informant, Police Officer realized that the deceased was given in marriage to aforesaid Applicant in the year 2011 and they had one daughter from the marriage. The deceased had again become pregnant and the couple realized that it was a female fetus. It is contended in the FIR that even when the pregnancy was of more than five months, the husband took the decision to abort the child illegally. Allegations are made that the mother and sister of the deceased helped the husband in that act.

4 The deceases was taken to the dispensary of Dr.Turorikar by name Shantai Clinic and there an attempt was made of induced

illegal abortion. During abortion, the doctor realized that complications were developed. They somehow forcibly removed the fetus and as the condition of the deceased had become serious, record was created to show that she was shifted to other place. Before shifting to the Government Hospital, Latur, Rabia had died. Allegations are made that even when there were no facilities like keeping indoor patient, there was no necessary qualification for performing the operation of such abortion, when there was no facility of operation like operation theater and when there was no permission of MTP (Medical Termination of Pregnancy) to the center, the abortion was induced and due to these circumstances, Rabia died.

5 There are statements of staff members showing that the mother and sister of deceased were in the company of deceased when she was take for abortion and at all the places including the Government hospital. There is record like signature made by the husband on the medical papers showing that he had consented to it. Thus, it cannot be said that there is no material at all against the present Applicants. There is more than sufficient material to make out the aforesaid offences against the Applicants. This Court holds that it

is not possible to quash the FIR. In the result, the following order is passed:

**O R D E R**

I. Both the applications are dismissed.

II. Interim relief, if any, is vacated.

III. Rule is discharged.

**[ SMT. VIBHA KANKANWADI, J. ]** **[ T. V. NALAWADE, J. ]**

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