

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

Criminal Application No. 02687 of 2018

District : Beed

1. Asha w/o. Bhanudas Wadmare,
Age : 55 years,
Occupation : Nil,
R/o. Thoratwadi,
Behind Reporter Bhavan,
Beed, Taluka & Dist. Beed.
2. Vishal s/o. Bhanudas Shejal,
Age : 30 years,
Occupation : Education / Nil,
R/o. Swarajy Nagar,
Dnyaneshwar Colony,
Beed, Taluka & Dist. Beed.
3. Shaikh Irfan @ Lala
s/o. Shaikh Samad,
Age : 29 years,
Occupation : Labour,
R/o. Nagar Road, Balepir,
Near Sahara Hotel, Beed,
Taluka & Dist. Beed.
4. Momin Abdul Shakil
s/o. Abdul Rahim,
Age : 38 years,
Occupation : Labour,
R/o. Dhondipura,
Sarafa Line, Beed,
Taluka & Dist. Beed.

.. Applicants
(Original
accused)

versus

1. The State of Maharashtra,
Through P.S. Officer,
Shivajinagar Police Station,
Beed.

... Contd.

2. Lata w/o. Keshav Ugalmugle,
Age : 34 years,
Occupation : Household,
R/o. Police Colony,
Shivajinagar, Beed,
Taluka & Dist. Beed. } .. Respondents.

.....

Mr. Vilas P. Savant, Advocate, for the applicants.

*Mr. A.A. Jagatkar, Additional Public Prosecutor,
for respondent no.01.*

Mr. R.D. Khadap, Advocate, for respondent no.02.

.....

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

DATE : 22ND OCTOBER 2018

JUDGMENT [Per Smt. Vibha Kankanwadi, J.] :

01. Rule. Rule made returnable forthwith. By consent, heard finally.

02. Present application has been filed by original accused Nos.01, 02, 03 and 05 by invoking inherent powers of this Court under Section 482 of Code of Criminal Procedure in order to quash First Information Report (FIR) vide Crime No. 475 of 2017 dated 03-07-2017, registered with Shivaji Nagar, Police Station, Beed Dist. Beed, for the offence punishable under Section 306 read with 34 of the Indian Penal Code.

03. Respondent No.2 has lodged the aforesaid FIR stating that, her husband deceased Keshav Ashruba Ugalmugale was serving as police constable with Police Headquarters, Beed. She along with her husband and children were residing in the police quarter. Her husband was suspended on the ground that, he had demanded bribe on 19-06-2015 on the report lodged by Police Inspector Gondkar of Anti Corruption Bureau, Beed. She contends that, her husband had not demanded nor accepted any amount. However, during the course of suspension period he was given Head Quarter posting. He was required to incur expenditure for Court proceeding and also for the domestic purpose. He was required to take hand loan from private moneylenders such as, (i) Lala R/o In front of Sahara Hotel, Javednagar, Beed, (ii) Shakil R/o In front of Santoshi Mata Talkies, Beed, (iii) Wadmarebai R/o Near Reporter Office, Beed, (iv) Munna Gaikwad R/o Indira Nagar, near Natyagruha, Beed, (v) Vishal R/o In front of S. P. Office, Beed and (vi) present applicant Police Head Constable Dhanwade. She also contends that, her husband had taken loan from GPF and also from Patsanstha as well as from her parlour business and repaid the loan taken from these persons. However, the interest amount was outstanding, and therefore, all the private money lenders were giving threat to her husband on his mobile to kill him. Her husband had stopped using the Sim Card. Then all those persons used to come to their house in police

colony and used to pressurize her husband to refund the interest amount and for that purpose they used to give threat to kill him. Her husband was fed up, and therefore, he committed suicide by leaving a suicide note on 30-06-2017 due to the harassment by the private moneylenders. Therefore, she has filed the FIR stating that, all these persons have abetted the commission of suicide by her husband.

04. The applicant has contended that, he has been falsely implicated. The FIR does not disclose full name of the applicant nor any specific role has been attributed to him. The brother of the deceased is also in police department and he had contested the election of Patsanstha of the police employees against the present applicant and the brother of the deceased was defeated in the said election. Therefore, the applicant has been implicated by the informant at the behest of her brother-in-law. It is stated that, the alleged suicide was committed on 30-06-2017, however the FIR came to be lodged on 03-07-2017. The inordinate delay has not been explained by the informant. Deceased Keshav was already suspended in Anti Corruption Case and the trial was going on. The last date in that proceeding was 27-06-2017 and deceased committed suicide on 30-06-2017. The said case might be the real reason for him to commit suicide. The allegations are bogus, and therefore, he prayed for quashment of the FIR.

05. The application has been objected on the ground that, there is evidence against the present applicants. Deceased had left a note before committing suicide. Handwriting expert opinion has been received. It has been opined that, the chit is in the handwriting of the deceased.

06. Heard learned advocate Mr. V. P. Savant for the applicant, learned Addl. Public Prosecutor Ms. P. V. Diggikar for State and learned Advocate Mr. R. D. Khadap for respondent No.2. Perused the police papers. All the learned advocates have argued in support of their respective contentions.

07. The fact that emerges is that, deceased was already suspended due to the Anti Corruption Case against him. According to the informant her husband had taken hand loan from the present applicant. The statements of the witnesses as well as the FIR would show that none of them have stated as to how much amount was taken from the applicant. It was tried to be submitted that some amount was transferred in the account of the applicant by deceased, however that kind of evidence appears to have not been produced before the police even till date, though it can be said that the informant might be possessing the same. The prosecution is relying mainly on the suicide note. Perusal of the same would show that, only the

names of the present applicants have been mentioned. It is mentioned that the applicant no.03 is a private moneylender. Only the first or last names of other applicants has been mentioned. After mentioning their names, it is stated that her husband had repaid the loan. Still all the applicants along with one more person i.e. Police Constable Dhanwade were threatening and defaming the deceased. Perusal of the suicide note would show that it is silent on the point as to how much amount was taken from each of the applicants / accused. When the amount allegedly taken from each of them has been repaid to each of them, even the police papers would show that in the statements of witnesses, vague statements are made that all the accused persons used to come to the house of the deceased and used to harass him. If the deceased had the feeling that these persons were harassing him, there was no hurdle for him to lodge a complaint against all these persons much prior to the date of incident.

08. We cannot forget that deceased was a police constable. If at all there was any harassment, he could have gone to the police station to lodge a report against those persons. It also appears from the FIR that, offence against deceased was lodged around 19-06-2015. The deceased has committed suicide on 30.06.2017. So for almost two years how much amount could have been taken by deceased as loan, is a

question. It is stated that he has taken loan from six persons. It is also stated that, the principal amount was repaid by taking loan from GPF as well as by taking loan from *Patsanstha*. Collection of evidence by police does not support this fact. It is also not stated by any of the witnesses that, all these persons from whom deceased had allegedly taken loan were knowing each other. There is no question of common intention on their part when they were interested in getting their money back. If we presume for a moment that, they had extended the amount to the deceased, they would not be interested in his death. It appears that, from some of them deceased might have taken any amount but when he had decided to commit suicide he would have interested to protect his family members from those persons from demand of amount after his death, and therefore, it appears that he had implicated the names in the suicide note.

09. Therefore, taking into consideration the evidence that has been collected and the nature of the allegations, this is a fit case where the inherent powers of this Court are required to be exercised to quash the FIR as it is within the parameters laid down in *State of Haryana and Others Versus Bhajan Lal and Others.*, [1992 Supplement- 1 Supreme Court Cases, 335].

10. Hence the following order.

(a) The application is allowed.

(b) The first information report bearing Crime No. 475/2017, dated 03.07.2017, registered with Shivajinagar Police Station, Beed, District Beed, for offence punishable under Section 306, read with Section 34 of the Indian Penal Code and proceedings initiated on the basis of said crime, to the extent of applicants, are quashed and set aside.

(c) Rule made absolute in the above terms.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

.....