

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

CRIMINAL APPLICATION NO. 2858 OF 2018

Bharat s/o. Venkatrao Barure,
Age 62 years, Occu. Agri.,
R/o. Dnyaneshwar Nagar,
Opp. S.T. Workshop,
Ambejogai Road, Latur,
Tq. & Dist. Latur.

....Applicant.

Versus

1. The State of Maharashtra
Through Police Inspector,
Shivaji Nagar Police Station,
Latur, Tq. & Dist. Latur.
2. Hema w/o. Dattatraya Waghmare,
Age 35 years, Occu. Household,
R/o. Vitthal Nagar, Behind Bus Depot,
Near Mhasoba Temple, Latur,
Tq. & Dist. Latur.

....Respondents.

Mr. V.D.Godbharle, Advocate for applicant.

Mr. R.V. Dasalkar, APP for respondent No. 1/State.

Mr. S.G. Joshi, Advocate for respondent No. 2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 04/12/2018.**

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

- 1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.
- 2) The present proceeding is filed under section 482 of

Criminal Procedure Code for relief of quashing of F.I.R. No. 221/2018 registered with Shivaji Nagar Police Station, Latur for offences punishable under section 306 r/w. 34 of Indian Penal Code and few sections of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3) The report is given by respondent No. 2. The deceased Dattatraya was her husband and he was in the business of selling building material. It is her contention that many persons had taken material from the shop of deceased on credit basis and they had not paid the price of the articles for many months. It is contended that those persons were harassing the deceased by saying that he should not press the demand, otherwise they would see that his shop is closed. It is her contention that she used to listen the talk which used to be there between the deceased and his customers and that is why she knew that the persons who had taken the goods on credit basis were harassing the deceased.

4) The incident in question took place on 11.8.2018. The deceased left home at 7.30 a.m. for shop. After some time, friend of deceased by name Saleem Shaikh came to the first informant and he informed that some untoward incident had taken place in the shop. When they went to shop, they found that the deceased had

committed suicide by hanging himself in shop. It is contended by the first informant that before committing suicide, the deceased had sent his diary to his brother in law and father in law and in that diary, there were names of present applicant and others including their mobile phone numbers and the deceased had written the amount which was due from those persons. As against the name of present applicant Shri. Bharat, amount of Rs. 1.3 lakh was written. It was written in the diary that he had applied for loan to the company of Rakesh Sharma, Mahesh Tripathi and Mathur, but they had not passed the loan and payment was not made to him. He has allegedly written that due to the aforesaid reasons like non payment of the charges of the goods and not sanctioning of the loan, he had taken decision to put an end to his life. This diary was taken over by the police and on the basis of that diary, the offence is registered under aforesaid sections.

5) This Court has carefully gone through the so called suicide note. Though the name of applicant appears in the diary along with names of other persons, the so called suicide note does not show that they were harassing the deceased. The writing shows that only due to the aforesaid circumstances, he was taking the decision of suicide. If amount was due from some customers, in ordinary course, the deceased ought to have taken proper action in

Court for recovery of amount. The submissions made and the record does not show that there is anything with the prosecution to show that these persons had made purchases on credit basis from the deceased. Only because such record is there, it cannot be said that the applicant owed some amount to the deceased and he was harassing the deceased. The material on record if it is considered as it is does not make out the case of abetment of suicide. The evidence of widow will also be of hearsay nature. If the contentions of aforesaid nature are considered as they are, it can be said that if she had heard some conversation, she had no opportunity to know the name of the person who was talking with her husband from other side. This Court holds that it will be abuse of process of law, if the applicant is directed to face the trial for the aforesaid offences. In the result, the application is allowed. Relief is granted to the applicant in terms of prayer clause 'A'. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/