

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

CRIMINAL WRIT PETITION NO. 1446 OF 2017

1. Arun s/o. Pralhad Kasture,
Age 68 years, Occu. Business.
2. Pankaj @ Buntty s/o. Arun Kasture,
Age 46 years, Occu. Business.
3. Amar @ Monty s/o. Arun Kasture,
Age 38 years, Occu. Business.

1 to 3 R/o. Plot No. 20, Gat No. 33,
Sant Muktai Nagar, Jalgaon,
District Jalgaon.

4. Rameshchandra s/o. Badrinarayan Purohit,
Age 70 years, Occu. Business,
R/o. 11, Balaji Peth, Jalgaon.
5. Shekhar @ Nandkishor s/o. Shivkumar
Joshi, Age 35 years, Occu. Business,
R/o. Near Baliram Mandir, Baliram Peth,
Jalgaon, District Jalgaon.

....Petitioners.

Versus

1. The State of Maharashtra,
Through Police Station Zilha Peth,
Jalgaon, District Jalgaon.
2. Rahul s/o. Ramesh Vibhandik,
Age 41 years, Occu. Business,
R/o. 62, Opposite Panchmukhi
Hanuman Temple, Jalgaon,
District Jalgaon.

....Respondents.

Mr. K.C. Sant, Advocate for petitioners.
Mr. R.V. Dasalkar, APP for respondent No. 1/State.
Mr. V.B. Patil, Advocate for respondent No. 2.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 19/10/2018.**

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 Articles 226 and 227 of Constitution of India for relief of quashing of C.R.No. 71/2017 registered with Zilha Peth Police Station, Jalgaon for offences punishable under section 306 r/w. 34 of Indian Penal Code. The report is given by respondent No. 2. Deceased Ramesh was his father. The deceased had entered into an agreement with present applicant No. 1 - Arun Kasture and he had given portion of plot No. 2, City Survey No. 167 of Jalgaon on lease basis. The period of lease came to an end in November 2016 and the deceased had no intention to continue the lease.

3) It is contended that the deceased had requested Arun to return back the possession, but Arun did not return back the possession and when the deceased insisted, Arun and his other friends, other applicants, said that Arun will not vacate the premises and it was open to deceased to sell the property to Arun. It is contended that Arun had then stopped giving rent of the space. It is contended that due to this conduct of the applicants, his father was

under mental tension.

4) The incident in question took place on 3.7.2017 after 1.30 p.m. The deceased consumed poison. He was shifted to hospital, but he died due to poisoning on 5.7.2017 at 7.45 a.m. One chit was found in pocket of shirt of the deceased in which he has blamed the applicants Arun, Banti, Monti. The suicide note shows that in the past amount of Rs. 5 lakh was taken by the deceased out of which Rs.2.5 lakh was accepted as deposit and the remaining amount was towards rent. There was no written agreement. Arun had filed Special Civil Suit No. 64/2017 for relief of specific performance of contract and the relief of injunction was also claimed to protect the possession. The deceased had not filed suit for possession.

5) In the suicide note, the deceased has specifically mentioned that due to tension he was taking such step and persons like Arun, Banti and Monti had given him tension. The learned APP submitted that there was harassment caused to one more person by the applicants in the past and such material is collected. Even if that contention is accepted, it cannot be said that three persons mentioned in the suicide note had intention as mentioned in section 107 of IPC for offence of abetment in the present matter. The facts

do not constitute the offence of abetment of suicide. Nothing can be achieved if petitioners are made to face the trial for such offence. In the result, the petition is allowed. Relief is granted in terms of prayer clause 'A'. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/