

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3177 OF 2018

Vikas S/o Nivrutti Masalkar,
Age : 30 Years, Occ. Agri & Labour (Meson),
R/o. Dangewadi Tq. Pathardi,
Dist. Ahmednagar

VERSUS

1. The State of Maharashtra
Through its Investigation Officer,
Pathardi Police Station,
2. Mira W/o Ramesh Borde,
Age : 32 Years, Occ. Agri & Household,
R/o. Borudewsti, Old Kherda Road,
Pathardi, Tq. Pathardi,
Dist. Ahmednagar

..RESPONDENTS

...
Advocate for Applicant : Mr. N.B. Narwade
APP for Respondent No.1: Mr. R.V. Dasalkar
Advocate for respondent No.2 : Y.V. Kakade
...

CORAM :T.V. NALAWADE AND
SMT.VIBHA KANKANWADI,JJ.
DATE : 14th DECEMBER, 2018.

ORAL 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 FIR No. 544/2018 registered with Pathardi Police Station, District Ahmednagar, for the offences punishable

under Sections 306, 506 read with Section 34 of the Indian Penal Code. The crime is registered on the basis of report given by respondent No.2. The deceased was the husband of first informant. He had taken loan from some persons. On 8.9.2018, at about 8.30 p.m. when the first informant, the deceased and other members of the family were at home, applicant went to their house and demanded the hand loan of Rs.7,000/- given by him to the deceased. As the husband of informant did not give the amount, applicant said that he would take away the motorcycle of the deceased with him and he would return the motorcycle when the amount will be returned. He has also given threat that he would defame the husband of first informant if the amount is not returned. Allegations are made by the first informant that similarly at 7.30 p.m. two more persons namely Shrikant Kalokhe and Rekha Kalokhe came to her house and they demanded back the hand loan of Rs. 5,000/- given by them to the deceased and as the deceased did not return the amount, they gave threat to file case against him.

3. It is the contention of the first informant that on that night they had taken the dinner at 8.30 p.m. and on the next day, at 6.00 a.m., the husband went to village Pathardi. It is her contention that after one hour, he returned and asked the member of the family to perform their routine work and wash the bullocks as it was Pola festival. It is her contention that when the first informant and her mother-in-law were cooking food in the courtyard, and others including the father-in-law

had gone to the field to bring fodder for the bullock, when the husband and she herself were in the house, at 3.00 p.m., her husband committed suicide by hanging. She gave report on 09.09.2018, against the applicant and aforesaid two persons and made allegations that due to aforesaid incident, which had taken place one day prior to suicide, the husband had committed suicide.

4. Admittedly, no suicide note is left behind by the deceased. It is not the contention of the first informant that no hand loan was taken by her husband, from the applicant and others. If the person who had helped the husband by giving hand loan in the past, it cannot be said that they intentionally abetted suicide of the husband of the first informant by demanding back the amount which they had given to the husband of the first informant. This Court holds that the ingredients of Section 107 of the Indian Penal Code are not made out even if the contentions are accepted as it is. In the result, following order.

ORDER

1. Application is allowed.
2. Relief is granted in terms of prayer clause (B).
3. Rule made absolute in above terms.

**[SMT.VIBHA KANKANWADI]
JUDGE**

**[T.V. NALAWADE]
JUDGE**