

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

CRIMINAL APPLICATION NO. 155 OF 2019

Chandrakant S/o Yadavrao Gavhane
Age : 63 years, Occ : Business,
R/o. Ganesh Nagar, Nanded,
Taluka and District Nanded.

Versus

1. The State of Maharashtra
(copy to be served on
Public Prosecutor, High Court
of Judicature of Bombay)
2. Murlimohan Rammohan Kangala
Age – 47 years, Occ : Service,
R/o. Vidyanagar, Sakshinivas,
Nanded.

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Mr. V. R. Dhorde, Advocate for the Applicant.
Mr. D. S. Jape, App for Respondent No. 1 – State.
Mr. S. S. Gangakhedkar, Advocate for Respondent No.2.

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**CORAM : T. V. NALAWADE &
V. K. JADHAV, JJ.**

DATED : 8th NOVEMBER, 2019

JUDGMENT :- (Per V. K. Jadhav, J.)

1. Rule. Rule made returnable forthwith. Heard both the sides by consent for final disposal.
2. By filing this application, the applicant seeks quashing of the FIR bearing C.R. No. 0218 of 2018 under Section 306 r/w 34 of the

Indian Penal Code registered with Bhagyanagar Police Station, Nanded along with Charge-sheet No. 175 of 2018.

3. On 11.07.2018, deceased Sumohan shot himself by his own revolver and committed suicide. Deceased Sumohan has left a suicidal note. On the basis of the complaint lodged by the real brother of deceased, namely, Murli Mohan, the aforesaid crime came to be registered. It has been alleged in the complaint that deceased was one of the partners of Manomay Vibro Cable Cast, a concern, and the present applicant and some other persons were also the partners. They had invested certain amount in the partnership business. However, as per terms of the partnership agreement, present applicant had not invested 50% of the amount. It has also been alleged in the complaint that the present applicant had made certain changes in the accounts of the partnership and on the basis of the same, started claiming to be the owner of the partnership business. In consequence thereof, deceased Sumohan had sustained financial loss. Deceased Sumohan was under tension and strain of the financial losses and problems. Deceased Sumohan had disclosed to the informant i.e. his real brother that the present applicant is responsible for his plight. As alleged in the complaint,

in addition to this, deceased Sumohan was also under tension and strain of financial loss as the co-accused G. Balareddy and Vinod Reddy had not refunded the huge amount of Rs.80,00,000/- to the deceased. Furthermore, co-accused Jitendra Gupta was to give certain amount, which is in crores, to the deceased but he had not paid the same. Thus, deceased Sumohan committed suicide by leaving a suicidal note to blame all these persons for his suicide.

4. Learned counsel for the applicant submits that the said partnership was established and registered in the year 2011-2012. The applicant and the other partners of the said partnership including the deceased had visited various foreign countries to observe the actual process and plant and machinery for manufacturing cement concrete pipes etc. Even the partnership had purchased land, plant and machinery and had begun production in the year 2013-2014. Learned counsel submits that the deceased was heavily addicted to liquor. Learned counsel submits that even as per the contents of the suicidal note itself, the deceased was unable to sustain the tension and strain of financial loss and problems. Even the deceased has mentioned in his suicidal note that due to the financial losses and pending issues (including the

financial issues with the other co-accused persons) he had a lot of stress since last eight to ten months and so he decided to end his life. Learned counsel submits that there is no reference of any act or incident to infer that the present applicant had committed any willful act or omission or intentionally instigated or aided the deceased in committing the act of suicide. Learned counsel submits that the deceased could not bear financial strain and as stated in the suicidal note, he had decided to end his life. It is a case of self immolation for which nobody is responsible. Learned counsel submits that this Court (Coram : T. V. Nalawade & Mangesh S. Patil, JJ.), by order dated 02.05.2019 in Criminal Writ Petition No. 138 of 2019, quashed and set aside the FIR as against the co-accused Jitendra Mohan Gupta. Furthermore, by order dated 04.09.2019, this Court (Coram : T. V. Nalawade & R. G. Avachat, JJ.) in Criminal Writ Petition No. 999 of 2019, quashed and set aside the FIR as against the co-accused G. Balareddy.

5. Learned counsel for respondent no.2/informant submits that deceased Sumohan and his two partners, namely, Sanjay Pekamvar and Salimuddin Ahmed have collectively made investment of Rs.2,39,21,306/- in the partnership. They had invested amount in furtherance of the Memorandum Of Understanding (MOU) on

24.04.2011. Learned counsel submits that during the course of investigation, statements of those partners came to be recorded and they have supported the allegations made in the complaint. Deceased Sumohan has also left the suicidal note where he has made specific allegations against the present applicant. Learned counsel submits that the applicant had played various tactics and the work orders were never procured in the name of the partnership, but all the work orders were procured in favour of M/s. Medhavi Cement Products by the applicant himself. In consequence thereof, their partnership had not achieved the expected profit. The deceased had raised his grievances about the same but the applicant had not taken any cognizance of the same. Though the original MOU gives power to operate the bank account by two groups i.e. one group of the applicant and another group of the deceased and other partners, acting as a single person, however, the said MOU had been contravened by the applicant arbitrarily. Therefore, the deceased had been put to mental depression. The applicant is guilty of siphoning the funds and utilization of the same without taking into confidence the other members. The deceased was not addicted to alcohol. Learned counsel submits that the FIR was quashed against the co-accused

persons on some different grounds. This application is liable to be rejected.

6. Learned APP submits that the offence is serious. There are Specific allegations in the suicidal note against the applicant. There is no substance in the application and the application is liable to be dismissed.

7. On going through the allegations made in the complaint and on perusal of the charge sheet, particularly the suicidal note, it appears that the deceased had himself stated in the suicidal note that he was unable to bear the mental stress of the financial losses and therefore, he had decided to end his life. Furthermore, there is no proximity in time also. The said partnership was established way back in the year 2011-2012 and touching to the business of the partnership various tasks had been carried out and successfully completed. It further appears that simultaneously the deceased had also indulged in some financial transactions with some other co-accused persons. We do not find any willful act or omission or intentional aid or instigation by the applicant to the deceased in committing the act of suicide. In our considered view, the

allegations made as against the applicant even if accepted as it is, the same neither constitute willful act/omission nor intentional aid or instigation by the applicant to the deceased in committing the act of suicide within the meaning of Section 107 of the Indian Penal Code and consequently, short of attracting the penal provisions of Section 306 of the Indian Penal Code. Hence, the following order:

ORDER

The Criminal Application No. 155 of 2019 is hereby allowed in terms of prayer clause (B). Rule is made absolute in those terms.

(V. K. JADHAV, J.)

(T. V. NALAWADE, J.)

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