

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

CRIMINAL APPLICATION NO.211 OF 2019

1. Vashishta S/o Sonajirao Jadhav,
Age 71 years, Occu. Pensioner,
2. Vasuvaibhav S/o Vashishta Jadhav,
Age 29 years, Occu. Agri.,
3. Suman Vashishta Jadhav,
Age 64 years, Occu. Household,
4. Vasusaurabh Vashishta Jadhav,
Age 27 years, Occu. Education,

All R/o Wadwani, Tq. Wadwani,
District Beed.

5. Sarika @ Vasumati Prakash Mane,
Age 35 years, Occu. Household,
R/o Tadsonna, Tq. and Dist. Beed.
6. Kalidas Mitthu Wagh,
Age 35 years, Occu. Service,
R/o Khadkighat,
Tq. and Dist. Beed.

... **Applicants**

Versus

1. The State of Maharashtra,
Through Police Inspector,
Wadwani Police Station, Wadwani,
Tq. Wadwani, Dist. Beed.
2. Deepak Rajambar Sawant,
Age 31 years, Occu. Agri.,
R/o Kuppa, Tq. Wadwani,
District Beed.

... **Respondents**

...
Mr. R.G.Hange, Advocate for Applicants.
Mr. Swapnil Joshi, APP for Respondent-State.
Mr. S.J.Salunke, Advocate for Respondent No.2.
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**CORAM : T.V.NALAWADE AND
MANGESH S. PATIL, JJ.**

DATE : 02.04.2019

JUDGMENT : (Per Mangesh S. Patil, J.) :-

Heard. Rule. The Rule is made returnable forthwith. The learned APP waives service for the Respondent-State. The learned advocate S.J.Salunke waives service for Respondent No.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicants are seeking quashment of Crime No.250 of 2018 registered with Wadwani Police Station, District Beed for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code and the proceeding lodged on that basis.

3. Shortly stated the prosecution case is to the effect

that the deceased was the father of the informant Respondent No.2 who committed suicide on 23.12.2018 by hanging himself. He allegedly left behind couple of suicide notes inter alia alleging that at the time of marriage of his son the applicant No.1 had duped him as he had to raise loan from bank and from individuals. He was therefore indebted. There was drought and no yield and therefore he was committing suicide. Respondent No.2 further alleged that his sister Archana was married to applicant No.2 on 24.12.2016 however he and all his near relations that is the rest of the applicants subjected her to ill-treatment. They used to taunt her. In spite of several attempts she could not resume cohabitation with her husband and was staying with her father for one and half year prior to the incident. On that count his father was under tremendous mental pressure. The applicants had insulted him and thereby abetted his suicide.

4. The learned advocate for the applicants submits that accepting the allegations in the FIR at their face value and even accepting the suicide note to be true, the

alleged conduct of the applicants would not constitute abetment within the meaning of Section 107 of the IPC. Even according to respondent No.2 his father was under tremendous mental pressure since his daughter Archana had come back from the matrimonial home and was staying at parental home for a year and half. Therefore there were very many other circumstances which cumulatively had impacted his decision to commit suicide. It would be a sheer abuse of the process of law if the applicants are allowed to face investigation and trial on such allegations.

5. The learned APP and the learned advocate for Respondent No.2 oppose the application. They submit that in the suicide note the deceased had specifically mentioned that he was indebted because of the expenses for the marriage and therefore the applicants cannot be allowed to let go without subjecting themselves for the scrutiny at the trial.

6. Obviously no minute scrutiny of the material is permissible and can be resorted to at this juncture.

However, even if one tends to accept the allegations in the FIR at their face value. It would only show that the daughter of the deceased was married to applicant No.1 but there was a matrimonial dispute and she had gone back to her parents. It also appears that he had to raise money to the tune of Rs.7,00,000/- for her marriage but it had all gone waste. Accepting this version to be true, in our considered view, it falls too short to constitute either an instigation or an intentional aid as contemplated under Section 107 of the IPC.

7. Worst is the case if one looks to the suicide note. The deceased has stated that applicant No.1 had duped him to the tune of Rs.7,00,000/- by solemnizing the marriage of applicant No.2 with his daughter. He was therefore indebted to a bank and to an individual. There was a drought with no yield and therefore, he was committing suicide. It would only point out that the deceased was harbouring frustration as inspite of having raised money in the form of loan, there was a matrimonial dispute. Pertinently, this was not the sole reason for the

deceased to commit suicide. In addition, even according to him he was indebted to a bank as well as some individuals and there was a drought and therefore he was unable to take any yield. If such is the state of affairs, it is quite apparent that there were very many circumstances which cumulatively had led the deceased to commit suicide. The matrimonial dispute between his daughter and applicant No.2 was only one of such factors. In view of such state of affairs, in our considered view, it would be a sheer misuse of the process of the Court if the applicants are allowed to face the charge based on such material. The case is squarely covered by Category 1, 3 and 8 of Bhajan Lal's case.

8. The application is allowed in terms of prayer clause 'B'.

9. The rule is accordingly made absolute.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-