

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 271 OF 2019

1. Babasaheb s/o Kisan Pawar,
Age: 68 years, Occu: Pensioner,
R/o Datta Colony, Majalgaon,
Tq. Majalgaon, Dist. Beed.
2. Bapurao s/o Laxman Gavali,
Age: 85 years, Occu: Nil,
R/o Gavalwadi, Tq. Patoda,
Dist. Beed.

... APPLICANTS
(Orig. Accused)

VERSUS

1. The State of Maharashtra,
Through Police Station,
Majalgaon Rural, Dist. Beed.
2. Sachin s/o Subhash @ Babanrao Raut,
Age : 19 years, Occu: Education,
R/o. Kesapuri, Tq. Majalgaon,
Dist. Beed.

... RESPONDENTS
(Resp. No.2 orig. informant)

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Mr. Sudarshan J. Salunke, Advocate for Applicants.

Mr. S. B. Yawalkar, APP for Respondent No.1 / State.

Mr. S. S. Thombre, Advocate for Respondent No.2.

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CORAM : **T. V. NALAWADE &
MANGESH S. PATIL, JJ.**

DATE : 25th April, 2019.

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 for relief of quashing of FIR No.396 of 2018, registered with Majalgaon (Rural) Police Station, District Beed, for the offence punishable under Section 306 read with 34 of the Indian Penal Code.

3 The crime is registered on the basis of report given by son of the deceased. Deceased, Subhash @ Babanrao left home on 17th October, 2018 at about 01:00 pm without informing anything to anybody. First informant contacted the deceased on that day at about 08:30 pm and then deceased informed that he had reached Sawargaon Phata. On 20th October, 2018, a relative of deceased by name Bapurao Ugle resident of Simurgavhan, Taluka Pathri, District Parbhani informed to the first informant on phone that deceased was

present in his house. First informant then requested the deceased to return to home as there was some function in the house. Deceased, however, did not return to home.

4 On 21st October, 2018 at about 11:00 am when first informant was present in the house at Kesapuri, persons of his village informed that the dead body of Subhash @ Babanrao was hanging at a mango tree of Narayan Dhisle and he was dead. First informant rushed there. The dead body was taken down, then AD was registered and postmortem was conducted.

5 When the dead body was found on 21st October, 2018, son of the deceased gave report on 30th November, 2018 against the Applicants. He has made allegations against the Applicants that there was some dispute between the Applicants and deceased and litigation was going on in the Court. He contended that on 29th June, 2018, his father was called to the disputed land as some measurement was to be taken in the disputed land. He has contended that in the field, the Applicants had given threats to the deceased and they had asked him to withdraw the litigation filed by

him. It is contended that due to the harassment of Applicants and the litigation, the deceased committed suicide and thus, the Applicants abetted suicide of the deceased.

6 The submissions made and record show that the disputed land was owned by Dhondabai Raut, mother of the deceased. In the year 2002, she had sold the land to Applicant No.2, Bapurao Gavali. Applicant No.1 is son-in-law of Applicant No.2. Dhondabai then filed suit in the year 2004 for cancellation of sale-deed. The suit came to be dismissed. She has filed appeal. She is dead and it appears that Eknath Raut is prosecuting that proceeding as legal representative of Dhondabai. The deceased was not representing Dhondabai in the said proceeding. There is record to show that Regular Civil Suit No.32 of 2004 was filed by Applicant, Bapurao in respect of disputed land against Dhondabai and others including the deceased for relief of permanent injunction. This suit came to be decided on 27th August, 2014 and permanent injunction came to be granted in favour of Applicant No.2, Bapurao (purchaser). The Court has held that Applicant No.2, Bapurao is in the possession of the property. The submissions made and record show that third-party had applied for

NA permission in respect of some portion of Survey No.9, which includes the disputed land and for that notices were issued by the revenue authority. Thus, the other proceeding, which is mentioned in the FIR was not on the basis of any application made by the Applicants. The said application of third-party was rejected. Thus, the dispute, which is pending in the Court and another circumstance like inquiry dated 29th June, 2018, had not triggered the incident dated 21st October, 2018. Further, FIR was not given immediately after finding of the dead body and it was given after one month and 10 days. If there was really such harassment from the Applicants, FIR would have been given immediately by son of the deceased. That did not happen. In any case, even after accepting the allegations as they are, it cannot be said that the Applicants had abetted suicide of the deceased. For suicide, there may be many reasons. The deceased had left home without informing anybody of his intention, then he had visited house of the relatives and he had avoided to return to home. Due to these circumstances, this Court holds that there is no material to make out *prima-facie* case for the offence of abetment of suicide. It will be abuse of process of law if the Applicants are directed to face the trial for this offence. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (C).
- III. Rule is made absolute in those terms.

[MANGESH S. PATIL, J.]**[T. V. NALAWADE, J.]***ndm*