

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.283 OF 2019

1. Venkat s/o Ramji Dabade,
Age : 42 years, Occu. Agril.,
R/o Dabde Shirur, Tq. Mukhed,
District Nanded
2. Ankush @ Babu s/o Ramji Dabade,
Age : 48 years, Occu. Agril.,
R/o Dabde Shirur, Tq. Mukhed,
District Nanded
3. Siddeshwar s/o Shamrao Pandhare,
Age : 26 years, Occu. Private Job,
R/o Khupsangi, Tq. Mangalvedha,
District Solapur

APPLICANTS

VERSUS

1. The State of Maharashtra,
through Police Station,
Mukhed, District Nanded
2. Bandu s/o Govind Kundgir,
Age : 45 years, occu. Agri.,
R/o Dabde Shirur, Tq. Mukhed,
District Nanded

RESPONDENTS

(Respondent No.2
is orig. informant)

Mr. Upendra B. Bilolikar, Advocate for the applicants
Mr. D.R. Kale, A.P.P. for the respondent/State
Mr. A.S. Kale, Advocate holding for Mr.S.B.
Talekar, Advocate for respondent No.2

**CORAM : T.V. NALAWADE AND
S.M. GAVHANE, JJ.**

DATE : 19th NOVEMBER, 2019

JUDGMENT (PER : T.V. NALAWADE, J.) :

Rule. Rule made returnable forthwith and with the consent of learned counsels for the parties, heard finally.

2. This application is filed for the relief of quashing the FIR registered at C.R. No.342 of 2018 with Police Station, Mukhed, District Nanded for the offences punishable under Sections 306, 323, 506 read with Section 34 of the Indian Penal Code ("IPC", for short). The said crime is registered on the basis of a report given by respondent No.2 namely Bandu Govind Kundgir on 20th November, 2018. In the report, he has made allegations that on 19th November, 2018, when his son Sandip was returning from Mukhed to the village, he was beaten by the present applicants by fists and kicks on account of old dispute. It is alleged that the applicants gave threats to deceased Sandip that they would blacken his face, move him in necked condition in the village and would destroy his entire family. This incident was allegedly witnessed by the informant's brother Uddhav Govind Kundgir and one Namdeo Dnyanoba

Devade. The incident is stated to have taken place at about 6.00 p.m. According to the informant, after the incident, deceased Sandip did not return to home. When search was taken by the informant and his brother Hanumant Govind Kundgir, they noticed that Sandip had committed suicide in the field of one Dhanaji Pawar by hanging himself to a neem tree. No suicide note is left behind by the deceased.

3. The learned counsel for the applicants took this Court through the record of previous dispute. The said record contains the report given by present applicant No.2 Ankush @ Babu s/o Ramji Dabade to Police Station, Mukhed on 6th March, 2017 wherein he had made allegations against deceased Sandip that he was after the daughter of applicant No.2 Ankush. It was alleged that on 2nd March, 2017, his daughter was kidnapped by deceased Sandip and others by forcibly taking her away in a four wheeler. On the basis of the said report, crime was initially registered for the offences punishable under Sections 363, 366A read with Section 34 of IPC against Sandip and others. During the investigation, the girl was traced out and her statement under Section 164 of the Code of Criminal Procedure came

to be recorded. In her statement, she disclosed that when she had been to the school to collect hall-ticket of her 10th standard examination, Sandip intercepted her on the road. According to her, at that time, Sandip told her that he wanted to marry her and when she refused therefor, she was forcibly taken away in a vehicle. It was alleged that the relatives of Sandip had helped him to go to Pune with the daughter of Ankush and there, in a guesthouse, she was raped. As the crime was registered on the basis of report given by the father of the girl, she was brought back to the village and then Sandip came to be arrested. The record shows that the case came to be filed against Sandip and others for the aforesaid offences and for the offence punishable under Section 376 (2) of the IPC. The evidence of the girl came to be recorded on 9th July, 2018 and she stuck to her version. Thus, on the date of the incident involved in the present proceeding, the case was part-heard and there were the aforesaid circumstances.

4. The submissions made and the record show that the marriage between the daughter of applicant No.2 and applicant No. 3 — Siddeshwar Pandhare was performed

subsequent to the aforesaid incident. Applicant No.3 Siddeshwar is resident of district Solapur; however, he is also shown to be involved in the present case. There is nothing on record, except the interested versions of two witnesses, to show that some incident did take place in which Sandip was beaten.

5. The aforesaid circumstances show that Sandip was at fault due to which, even a Sessions Case was filed against him and his relatives and in that case, the victim girl had given evidence against him. These circumstances are sufficient to infer that there was no reason for the applicants to intercept Sandip and assault him. They were following the procedure prescribed by law. Sandip has not left behind any suicide note. Even if it is presumed that some incident of assault had taken place, which does not seem to be probable, it cannot be inferred that there was intention of the applicants that Sandip should commit suicide. It will be an abuse of process of law if the applicants are asked to face the trial for the offence of abetment to suicide. In the result, the following order.

6. The Criminal Application is allowed in terms of prayer clause (C). Rule is made absolute in those terms.

[S.M. GAVHANE]
JUDGE

[T.V. NALAWADE]
JUDGE

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