

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 138 OF 2019

Jitendra Mohan Gupta,
Age: 46 Years,
Son of Bhagat Ram Gupta,
Occu. Director of M/s Gupta
Power Infrastructure Ltd. (GPIL),
Office: Cuttack Road,
Bhubaneswar – 751006 (Odisha State). ... **Petitioner**

Vs.

1. The State of Maharashtra
 Through P I. Bhagyanagar
 Police Station, Nanded.
2. Murli Mohan Rammohan Kanagala,
 Age: 57 Years, Occu: Service,
 R/o: “Sakshi Niwas”, Vidya Nagar,
 Nanded, Dist. Nanded. ... **Respondents**

Mr. N.L. Jadhav, Advocate for the Petitioner.
Mr. S.B. Yawalkar, A.P.P. for the Respondent-State.
Mr. S. G. Gangakhedkar, Advocate for the Respondent no.2.

**CORAM : T.V. NALAWADE &
 MANGESH S. PATIL, JJ.**
DATE : 02.05.2019

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

Heard. Rule. Rule is made returnable forthwith. The learned A.P.P. and the learned advocate for the respondent no.2 waive service. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The applicant who is one of the accused facing charge under Section 306 read with Section 34 of the Indian Penal Code bearing Crime No.218 of 2018 registered with Bhagyanagar Police Station, Nanded is seeking quashment of the F.I.R. as well as the charge-sheet.

3. In an unfortunate incident the deceased who was a businessman committed suicide on 11.07.2018 with a revolver at his home in Nanded leaving behind a suicide note. He alleged that he was ending his life as he was unable to sustain the tension and stress due to financial losses and problems. He had invested crores of rupees with his partners Salimuddin Ahmed and Sanjay Pekam having 50% share each. The accused Chandrakant Gavhane had promised to invest more but failed to invest. Said Chandrakant Gavhane then started posing that the firm was of his exclusive ownership and that Mr. Gavhane was solely responsible for his suicide. He also alleged that one Bala Reddy and Vinod Reddy of ICSA India Limited, Hyderabad had also duped him of Rs.80,00,000/-. So far as the applicant is concerned he alleged that though he owed Rs. 1.16 Crores to him i.e. deceased the former was denying the liability. Based on such a note the respondent no.2 who happens to be his brother lodged the F.I.R. and the crime was registered. After investigation the charge-sheet has been filed.

4. The learned advocate for the petitioner submits that

accepting the allegations in the F.I.R. and the suicide note at their face value, the only allegation against the applicant could be that he owed a sum of money to the deceased but was not paying it. Accepting this allegation to be true still it falls short of either intentional aid or instigation within the meaning of Section 107 of the Indian Penal Code so as to constitute abetment of suicide. He would further point out that in fact from the suicide note it is apparent that the deceased had attributed co-accused Chandrakant Gavhane as the person who was solely responsible for his suicide. No intention or knowledge can be attributed to the petitioner to lead the deceased to commit suicide. When there were several other reasons as well which had cumulatively put the deceased under stress, the applicant cannot be said to have abetted suicide. It would be a sheer abuse of the process of law if the petitioner is made to face the charge.

5. The learned A.P.P. and the learned advocate for the respondent no.2 submit that the offence is serious. There is a specific allegation in the suicide note showing that the petitioner owed him a huge sum of money but had not paid it. It was indeed a serious circumstance which had subjected the deceased under stress and constitutes a triggering factor.

6. We have carefully gone through the charge-sheet and the suicide note. A bare perusal of the suicide note reveals that the debt

which the petitioner owed to the deceased was only one of the three reasons which had put the deceased under stress. It is necessary to remember that abetment involves a mental process of instigating or intentionally aiding a person to do a thing. Each person has his own ideas of self-esteem and self-respect. Merely because a person is unable to bear the stress, one cannot jump to the conclusion that the act or the circumstance which causes the stress is a situation created with an intention that the deceased should commit suicide.

7. Accepting the allegations in the suicide note at its face value at the most it can be said that the petitioner owed a huge sum of money to the deceased. However the act of the petitioner in not repaying the money howsoever condemnable would not be sufficient to attribute necessary intention on his part to lead the deceased to commit suicide. Admittedly, it was a business transaction and would give rise to a civil liability. If instead of pursuing such civil remedy the deceased has found a shortcut to get rid of the stress in this manner, we are afraid the petitioner cannot be blamed by resorting to Section 306 of the Indian Penal Code.

8. As can be seen, infact it was not the deceased alone who was entitled to recover the money from the petitioner. It was a partnership between him and one witness Salimuddin Ahmed and the money was due to this partnership firm. If the petitioner was not

paying the money, it was not the deceased but even the other partner Salimuddin who was also a sufferer but he has not taken a similar step like the deceased.

9. Considering all these aspects, in our view, the allegations attributed to the petitioner even if accepted at their face value do not constitute either the intentional aid or instigation within the meaning of Section 107 of the Indian Penal Code and would not constitute an abetment of suicide under Section 306 of the Indian Penal Code.

10. The writ petition is allowed in terms of prayer Clause 'B'.

11. The Rule is accordingly made absolute.

(MANGESH S. PATIL, J.)

(T.V. NALAWADE, J.)