

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 240 OF 2019

1. Sanjay s/o. Lakhu Auti,
Age 45 years, Occu. Service,
R/o. Venusut Colony, Beed
Bypass Road, Aurangabad,
Tq. & Dist. Aurangabad.
2. Tanaji s/o. Mohan Suryawanshi,
Age 49 years, Occu. Service,
R/o. N-2, Cidco, Aurangabad,
Tq. & Dist. Aurangabad.
3. Umesh s/o. Balaji Dive,
Age 34 years, Occu. Service,
R/o. Plot No. B65, Nath Nagar,
Mahavir Provision, Aurangabad,
Tq. & Dist. Aurangabad.

....Petitioners.

Versus

1. The State of Maharashtra
2. The Police Inspector,
Jinsi Police Station,
Tq. & Dist. Aurangabad.
3. Pravin s/o. Ratanrao Chilghar,
Age 27 years, Occu. Service,
R/o. Sanjaynagar, Gat No.C-03,
Aurangabad.

....Respondents.

Mr. Joydeep Chatterji h/f. Mr. P.G. Patil, Advocate for petitioners.

Mr. R.D. Sanap, APP for respondent Nos. 1 & 2.

Mrs. Pratibha Suryawanshi, Advocate for respondent No. 3
(appointed).

**CORAM : T.V. NALAWADE AND
K.K. SONAWANE, JJ.
DATED : 13/06/2019.**

JUDGMENT : [PER T.V. NALAWADE, J.]

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The proceeding is filed for quashing of F.I.R. No. 25/2019 registered with Jinsi Police Station, Aurangabad for the offence punishable under section 306 r/w. 34 of Indian Penal Code (hereinafter referred to as 'IPC' for short). The crime is registered on the basis of report given by one Pravin Chilghar. Deceased Krushna alias Kishor was brother of Pravin. The deceased was working as driver with one J.K. Jadhav, who was Chairman of Lokvikas Cooperative Bank. About one year prior to the date of incident, he was removed from that service by Jadhav.

3) Allegations are made that the deceased had started plying auto rickshaw to earn livelihood. It is contended that when the deceased was working with Jadhav, Jadhav had promised the deceased to give him appointment on the post of Peon in the bank. Allegations are made that the deceased had given amount of Rs.3.5 lakh as cash amount and then Rs.60,000/- by taking loan in the name of his wife to Jadhav and then amount of Rs.1 lakh more was given by taking more loan for getting the job. Allegations are made

that even when the amount of Rs.5 lakh was given, no employment was given to deceased and Jadhav was deducting amount from the salary of deceased for making payment of installments of loan transaction.

4) It is the contention of brother of deceased that when deceased was removed from the job, deceased insisted that job of peon needs to be given to him as he had paid Rs.5 lakh. It is contended that Jadhav refused to give such job. It is contended that bank statement in respect of loan account was also not given by employee Suryawanshi (petitioner No. 2) and so, the deceased could not take steps against them. Petitioner No. 1 is Chief Executive Officer of the bank and petitioner No. 2 is Assistant General Manager of the bank. Allegations are made that they were harassing the deceased for making repayment of the loan and ultimately, on 17.1.2019 the deceased committed suicide in his house by hanging himself.

5) The submissions made and the record show that the deceased has left behind the suicide note. This Court has carefully gone through the suicide note. Main allegations of aforesaid nature are made against Jadhav, but those allegations are also not making out that amount of Rs.5 lakh was given to Jadhav. In suicide note, it

is mentioned that case of cheque bouncing was filed against him by the bank. He has made allegations that Jadhav was to give job of Peon to him. He has made allegations against police officers that they were protecting Jadhav. Then in the suicide note, he has disclosed that present petitioners had given threat of life to him and due to that, he had taken decision of suicide.

6) Jadhav is not before this Court. The record shows that in respect of loan transaction, proceeding was filed under Maharashtra Cooperative Societies Act and certificate was issued in favour of bank under section 101 of Cooperative Societies Act for recovery of that loan on 31.3.2018. It is obvious that on the basis of that order the proceeding was started for recovery of the loan amount. Bank statement of the loan amount is available in the papers of investigation and the statement shows that as against the loan amount taken some installments (5) were already paid of Rs.3000/- each and one installment of Rs.1500/- was also paid. One cheque of Rs.1 lakh was given, but that cheque bounced. There is account statement in respect of the saving account of the deceased and it shows that the amount taken by way of loan, the amount of Rs.53,700/- was credited in his account and then the amount of Rs.40,000/- was transferred to his loan account. He had withdrawn amount of Rs.65,000/- by cash and on different occasions, he had

withdrawn more amounts. There is one entry showing that the amount of Rs.24,000/- was transferred from his account to the account of Bhartiya Gramin Pat Sanstha.

7) There will be no record with the prosecution to show that the amount which was taken as loan was given to Jadhav, though Jadhav is not before this Court. However, the allegations of cheating can be as against Jadhav and not against the present petitioners who are bank officials. They were bound to take steps to recover the loan taken by the deceased and it cannot be said that by such acts, they have committed the offence of abatement of suicide. Nothing can be achieved by asking the petitioners to face the trial for aforesaid offences mentioned in F.I.R. No.25/2019 registered with Jinsi Police Station. It will be abuse of process of law. This Court holds that relief needs to be given to the petitioners. In the result, the petition is allowed. Relief is granted in terms of prayer clause 'B' to the extent of petitioners only. Fees of the learned counsel appointed for respondent No. 3 is quantified as Rs.3,000/- and it is to be paid through the High Court Legal Services Sub Committee, Aurangabad.

[K.K. SONAWANE, J.]

[T.V. NALAWADE, J.]

ssc/