

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.655 OF 2019

- 1) Kailas Eknath Dhotre,
Age-45 years, Occu:Agri.,
R/o-Kate Pimpalgaon,
Tq-Gangapur, Dist-Aurangabad,
- 2) Bablu Kailas Dhotre,
Age-22 years, Occu:Education,
R/o-Kate Pimpalgaon,
Tq-Gangapur, Dist-Aurangabad,
- 3) Anna Govind Moin,
Age-40 years, Occu:Agri.,
R/o-Waghalgaon Chor,
Shillegaon, Aurangabad,
- 4) Balu Ambadas Nikam,
Age-40 years, Occu:Agri.,
R/o-Maheboob Kheda,
Tq-Gangapur, Dist-Aurangabad,
- 5) Babasaheb Ambadas Nikam,
Age-48 years, Occu:Service,
R/o-Ranjangaon(Shenpunji),
Tq-Gangapur, Dist-Aurangabad.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Shillegaon Police Station,
Tq-Gangapur, Dist-Aurangabad,

- 2) Ashok Karbhari Dhotre,
Age-52 years, Occu:Agri.,
R/o-Kate Pimpalgaon,
Tq-Gangapur, Dist-Aurangabd.

...RESPONDENTS

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Mr.J.V. Deshpande Advocate with Mr. S.N.
Dudhate Advocate for Applicants.
Mr.M.M. Nerlikar, A.P.P. for Respondent No.1.
Mr.Y.H. Jadhav Advocate and Mr. S.S. Barhate
Advocate for Respondent No.2.

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**CORAM: T.V. NALAWADE AND
K.K. SONAWANE, JJ.**

DATE : 6TH JUNE, 2019

ORAL JUDGMENT [PER T.V. NALAWADEL, J.] :

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

2. Present Application is filed for the relief of quashing and setting aside First Information Report bearing No.280 of 2018 registered with Shillegaon Police Station, Tq-Gangapur, Dist-Aurangabad, for the offence

punishable under Section 306, 506 read with 34 of the Indian Penal Code. The crime is registered on the basis of report given by one Ashok Karbhari Dhotre. Deceased Pawan, aged about 23 years, was nephew of Ashok. There was some dispute between the families of the present Applicants and family of Ashok Dhotre over the issue of road. On 26th October 2018, there was some verbal exchange also due to that dispute.

3. On 27th October 2018, Kailas Dhotre, Applicant No.1 and his wife were admitted in the hospital for giving treatment in respect of poisoning. Kailas Dhotre gave statement to police that deceased Pawan and persons from family of Ashok Dhotre had forcibly administered poison to him and to his wife. Due to such statement given by Kailas Dhotre, Applicant No.1 of the present proceeding, Crime No.278 of 2018 was registered in Sillegaon Police Station, Tq-Gangapur, Dist-

Aurangabad for the offence punishable under Section 307, 323, 504, 143, 147 of the Indian Penal Code.

4. In the report given by Ashok Dhotre, uncle of deceased Pawan, on 30th October 2018, he has made allegations that due to the allegations made by Kailas Dhotre, his wife and other present Applicants, and as some action was taken by police, deceased Pawan was perturbed. Deceased had said to Ashok that his career was destroyed by Kailas and others by making false allegations against him. Then, deceased Pawan also was disturbed due to the conduct of the Applicants that they were moving in the vicinity and they were giving threats to Pawan. Ultimately on 29th October, 2018, Pawan left home after 10.00 p.m. and his dead body was found on 30th October, 2018, hanging to the tree situated at the back side of the house of Ashok. Ashok, uncle of Pawan, has

made allegations that only due to making of false allegations by Kailas Dhotre against Pawan and his family members, Pawan committed suicide and the present Applicants have abetted the suicide of Pawan.

5. In view of the nature of the allegations made in the First Information Report against the Applicants, this Court had asked the learned A.P.P. to show the papers of the investigation in Crime No.278 of 2018 registered on the basis of report given by Applicant No.1 Kailas Dhotre. These papers show that Bablu, Kailas and wife of Kailas gave statements to police as eye witnesses against deceased Pawan and others from the family of Ashok. Applicant Nos.3 to 5 (Anna, Balu and Babasaheb) did not give statements to the police that they witnessed the incident in which the poison was allegedly administered to Kailas and wife of Kailas. At present there is some record

showing that information was supplied to the hospital by the person who has shifted Kailas and his wife to the hospital, that out of some quarrel they had consumed poison. Submission was made that due to some quarrel between Kailas and his wife they had consumed poison, but due to dispute between two families they took names of Ashok, his nephew Pawan and others.

6. In any case, Applicant Nos.3, 4 and 5 have not stated before the police that they had witnessed the incident and in that incident, Ashok Dhotre or his deceased nephew Pawan were involved. Their statements are to the effect that after the incident, Bablu Dhotre, present Applicant No.2 disclosed that deceased and his relatives had administered poison to Kailas and to the wife of Kailas. Thus, it cannot be said that Applicant No.3 – Anna, Applicant No.4 – Balu and Applicant No.5 – Babasaheb have made allegations against

Pawan or his relatives. In view of these circumstances, this Court holds that it is not desirable to proceed as against Applicant No.3, 4 and 5, as they had not made any allegations against Pawan. However, allegations are specifically made by Kailas and Bablu, Applicant Nos.1 and 2 against Pawan and others.

7. When this Court expressed that this Court is not inclined to grant relief to Applicant Nos.1 and 2, learned counsel for the Applicants submits that he wants to withdraw the proceedings of Kailas and Bablu, Applicant Nos.1 and 2. Hence the following order:

O R D E R

(I) Application of Applicant No.1 –
Kailas Eknath Dhotre and Applicant No.2
– Bablu Kailas Dhotre is disposed of as

withdrawn.

(II) Application of Applicant No.3 – Anna Govind Moin, Applicant No.4 – Balu Ambadas Nikam and Applicant No.5 – Babasaheb Ambadas Nikam is allowed. Relief is granted to them in terms of prayer Clause "B)".

(III) Rule is made absolute in favour of Applicant Nos. 3, 4 and 5.

(IV) Rule is discharged in respect of Applicant Nos.1 and 2.

(K.K. SONAWANE, J.)

[T.V. NALAWADE, J.]

asb/JUN19