

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

CRIMINAL APPLICATION NO. 1277 OF 2019

Prasad Vyankaya Gunji,
Age: 43 Years, Occu: Business,
R/o: Renukanagar, Ambejogai Road,
Near Kavle Floor Mill, Latur,
Tq & Dist: Latur.

... APPLICANT

VERSUS

1] The State of Maharashtra,
Through Police Inspector,
Shivajinagar Police Station, Latur,
Tq. & Dist: Latur.

2] Hema Dattatray Waghmare,
Age: 35 Years, Occ: Household,
R/o: Vitthalnagar, Behind Bust Depot,
Tq & Dist. Latur.

... RESPONDENTS

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Mr. G. A. Kulkarni, h/f Mr. Parag Vijay Barde, Advocate for Applicant.

Mr. R. D. Sanap, APP for Respondent No.1 / State.

Mrs. Ashwini Sahastrabuddhe, Advocate (Appointed) for Respondent No.2.

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

DATE : 27th June, 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.221 of 2018, registered with Shivajinagar Police Station, District Latur, for the offence punishable under Section 306 read with 34 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989.

3 The crime is registered on the basis of report given by Respondent No.2, Hema Waghmare. Deceased was her husband. Deceased was in some business and he was disturbed at the relevant time. It is the contention of the informant that the persons like present Applicant had taken goods on credit, but they had not paid for the goods and they were harassing him. The deceased committed suicide on 11th August, 2018 in the shop by hanging himself. In his diary, nine names were written by him with mobile numbers and he had written some amount as against each name. As against the name of present Applicant (Prasad Gunji), an amount of Rs.2,16,000/-

was written. Under the names and aforesaid amount, it was written that the loan was not sanctioned in his favour and due to the aforesaid circumstances, he was committing suicide. This diary was taken over and due to this, crime was registered.

4 This Court had occasion to consider similar proceedings in the past like Criminal Application No.2858 of 2018, Criminal Application No.201 of 2019 with connected matters. This Court has granted relief to other persons by making following observations:

“4) The incident in question took place on 11.8.2018. The deceased left home at 7.30 a.m. for shop. After some time, friend of deceased by name Saleem Shaikh came to the first informant and he informed that some untoward incident had taken place in the shop. When they went to shop, they found that the deceased had committed suicide by hanging himself in shop. It is contended by the first informant that before committing suicide, the deceased had sent his diary to his brother in law and father in law and in that diary, there were names of present applicant and others including their mobile phone numbers and the deceased had written the amount which was due from those persons. As against the name of present applicant Shri. Bharat, amount of Rs. 1.3 lakh was written. It was written in the diary that he had applied for loan to the company of

Rakesh Sharma, Mahesh Tripathi and Mathur, but they had not passed the loan and payment was not made to him. He has allegedly written that due to the aforesaid reasons like non payment of the charges of the goods and not sanctioning of the loan, he had taken decision to put an end to his life. This diary was taken over by the police and on the basis of that diary, the offence is registered under aforesaid sections.

5) This Court has carefully gone through the so called suicide note. Though the name of applicant appears in the diary along with names of other persons, the so called suicide note does not show that they were harassing the deceased. The writing shows that only due to the aforesaid circumstances, he was taking the decision of suicide. If amount was due from some customers, in ordinary course, the deceased ought to have taken proper action in Court for recovery of amount. The submissions made and the record does not show that there is anything with the prosecution to show that these persons had made purchases on credit basis from the deceased. Only because such record is there, it cannot be said that the applicant owed some amount to the deceased and he was harassing the deceased. The material on record if it is considered as it is does not make out the case of abetment of suicide. The evidence of widow will also be of hearsay nature. If the contentions of aforesaid nature are considered as they are, it can be said that if she had heard some

conversion, she had no opportunity to know the name of the person who was talking with her husband from other side. This Court holds that it will be abuse of process of law, if the applicant is directed to face the trial for the aforesaid offences. In the result, the application is allowed. Relief is granted to the applicant in terms of prayer clause 'A'. Rule is made absolute in those terms.”

5 As this Court has granted relief to many of the aforesaid nine persons mentioned in the diary, for the same reasons, relief needs to be given to the present Applicant. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. Relief is granted in terms of prayer clause (B).
- III. The fees of the appointed counsel is quantified as Rs.3,000/- and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.
- IV. Rule is made absolute in those terms.

[K. K. SONAWANE, J.]

[T. V. NALAWADE, J.]