

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 1216 OF 2018**

1. Asad Khan S/o Nasib Khan Pathan
Age : 24 Years, Occ. Service,
At present 7 WG Air force Station,
Ambala Cantonment, Ambala (Hariyana)
R/o. Itava, Tal. Gangapur, Dist. Aurangabad
2. Munni Begam W/o Shaikh Muktar,
Age : 30 Years, Occ. Housewife,
R/o. sajapur, Tal. Gangapur, Dist.
Aurangabad
3. Nasib Khan Kalandar Khan Pathan
Age : 57 Years, Occ. Agriculture,
R/o. Itava, Tal. Gangapur, Dist. Aurangabad
4. Nurjaha Begam W/o Nasib Khan Pathan,
Age : 52 Years, Occu. Housewife,
R/o. Itava, Tal. Gangapur, District Aurangabad. ..APPLICANTS

VERSUS

1. The State of Maharashtra
Through Police Station, M.I.D.C.
Waluj
2. Haji Shaikh Rashid S/o Shaikh Maheeb
Age : 70 Years, Occ. Business,
R/o. Galli No.12, Hemaniya Colony,
Kiradpura, Aurangabad. ...RESPONDENTS

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Advocate for the Applicants : Mr. J.V. Deshpande and
Mr. S. N.Dudhate
A.PP for respondent-State : Mr. M.M. Nerlikar

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CORAM :T.V. NALAWADE AND
K.K. SONAWANE ,JJ.
DATE : 19th JULY, 2019.

JUDGMENT(PER T.V. NALWADE, 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. 385 of 2017 registered with M.I.D.C Waluj Police Station, Aurangabad for the offences punishable under Sections 306, 323, 504, 506 read with Section 34 of the Indian Penal Code. Relief is also claimed to quash and set-aside the proceeding of R.C.C. No. 166 of 2018 filed in the aforesaid crime and which is at present pending in the Court of learned Judicial Magistrate, First Class, Aurangabad.

3. Private complaint was filed by Haji Shaikh Rashid S/o Shaikh Maheebub, respondent No.2, who is father of the deceased namely Shaikh Muktar. The marriage of Shaikh Muktar had taken place with applicant No.2 Munni Begum in the year 2004. Allegations are made that Munni Begum is hot tempered and she used to quarrel with the deceased. The deceased and Munni Begum lived in the house of the informant till the year 2007. As she insisted the deceased to shift at other place, the deceased shifted to Itava, Tal. Gangapur, Dist. Aurangabad where the parents of Munni Begum were living. Contention is made that the deceased used to come to Aurangabad to see his father and he used to disclose that Munni Begum and her parents were quarreling with him and on one occasion relatives of his wife were

giving beating to him. It is contended that in the year 2012, when the deceased was in financial crises, the amount of Rs. 3,00,000/- was given by the informant to him. It is contended that probably that amount was given by him to his in-laws.

4. The incident in question took place on 02.04.2016. The deceased committed suicide by hanging himself. It is contended that on 30.03.2016, the deceased had disclosed that there was harassment to him from his wife and relatives of the wife. It is contended that due to this conduct of the present applicants on 13.10.2016, application was given to the police for taking action against the applicants, but no action was taken and so the private complaint was required to be filed. The learned Magistrate passed order of inquiry by Police under Section 200 of the Code of Criminal Procedure. The order was made on 03.08.2016, but on 11.06.2017, police registered crime on the basis of report of the respondent No.2, in which similar allegations are made.

5. There are statements of some witnesses, who include friends of deceased. They are to the effect that the deceased used to disclose that his wife was quarreling with him and he was being harassed by the relatives of his wife. There are statements of other persons also like Dnyaneshwar Ghotekar, who was working with the deceased, but his statement does not show that there used to be quarrel between the

deceased and his wife. Immediately learning about the incident from this witness, the wife and her relatives had rushed to the spot, to the place where the deceased was working and they made attempts to save his life by shifting him to the hospital.

6. The deceased has not left behind the suicide note. When incident in question took place on 02.04.2016, the crime came to be registered on 11.06.2017, and prior to that, private complaint was filed and order of enquiry under Section 200 of the Code of Criminal Procedure was already made by the learned Magistrate. Due to all these circumstances, this Court holds that it is not possible to allow the prosecution of the applicants for the aforesaid offences. It is not possible to infer that the applicants had abetted the suicide of the deceased. In the result, following order :-

ORDER

1. The application is allowed.
2. Relief is granted in terms of prayer clause 'B'.
3. Rule made absolute in those terms.

**[K.K. SONAWANE]
JUDGE**

**[T.V. NALAWADE]
JUDGE**