

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1663 OF 2019

1. Abhiman S/o Pralhad Yadav
Age : 37 Years, Occupation : Agriculture,
2. Vikram S/o Pralhad Yadav,
Age : 39 Years, Occ. Agriculture,
3. Anita W/O Abhiman Yadav,
Age : 32 Years, Occ. Household
and Agriculture,

All residents of Dhunkawad, Tq. Dharur,
Dist. Beed

4. Sunita W/o Sandipan Shinde,
Age : 53 Years, Occ. Household,
R/o. Chincholi (Mali) Tq. Kaij,
Dist. Beed

..APPLICANTS

VERSUS

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Dharur,
Dist. Beed
2. Narayan Namdeo Yadav
Age : 65 Years, Occupation – Agri.
R/o. Dhunkawad, Tq. Dharur,
Dist. Beed

...RESPONDENTS

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Advocate for the Applicants : Mr. A.D. Gade
 APP for Respondent No.1 : Mr. A.R. Kale
 Advocates for Respondent No.2 : Mr. Virendra R.
 Barhate(Appointed)

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**CORAM : T. V. NALAWADE AND
S. M. GAVHANE, JJ.**

DATE : 04.11.2019.

JUDGMENT (PER : T. V. NALWADE, J.) :-

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

2. Heard the learned counsel for the applicants and learned A.P.P. Learned counsel for the first informant did not turn up.

3. The proceeding is filed for relief of quashing of FIR No. 115 of 2019 registered with Dharur Police Station, District Beed for offences punishable under Sections 306, 323, 504, 506 read with Section 34 of the Indian Penal Code. The crime is registered on the basis of report given by one Narayan Yadav. The deceased Bhagwat was his son. Applicant Abhiman had contested election to village Panchayat and then election for the post of Sarpanch. The deceased was a friend of Abhiman. For the election purpose, the deceased had helped Abhiman by making arrangement of the amount of Rs.5,00,000/-. This amount was collected from one Devidas Landge and it was given to Abhiman. After the election, when the deceased demanded back that amount from Abhiman, Abhiman picked up quarrel and refused to return that amount. The election had taken place about one year prior to date of incident and about one month prior to the date of incident,

the deceased had disclosed that when he had demanded money, he was assaulted by Abhimnan and his relatives. Besides wife of Abhiman, some relatives are the other applicants in the present proceeding.

4. On 15.03.2019, one more incident had taken place in which beating was given to the deceased by the applicants. Though such beating was given on two occasions, the deceased and the informant had not approached police. They were afraid of Abhiman as he is village Sarpanch.

5. On 16.04.2019, the deceased said to the informant and other relatives that he had lost interest in the life as Abhiman was not ready to return the amount. He left home at about 8.00 a.m. After some time, one Vikram Yadav informed on phone that the deceased had committed suicide in the field of the informant by hanging himself. The report came to be given on 19.04.2019, i.e. after about 3 days of the incident.

6. It is not disputed that it is a case of suicide and there is *post mortem* report to that effect. There is statement of Devidas Landge in the record, which is to the effect that due to the request made by the deceased, he had given the amount of Rs.5,00,000/- to Abhiman and it was within his knowledge

that Abhiman had refused to return the money.

7. There is no record to show that any amount was given by Devidas Landge either to the deceased or to Abhiman. In ordinary course, Devidas would have taken steps for recovery of the amount against Abhiman, if at all, he had given money directly to Abhiman though it was done due to request made by the deceased. In any case, if such amount was given, they could have taken legal recourse for recovery. If there was some incident of quarrel and beating was given, due to such incident, it cannot be inferred that there was intention of the applicants as mentioned in Section 107 of the Indian Penal Code. Everybody from the family of Abhiman is named in the FIR as accused. The allegations made against the applicants cannot make out the case of abetment of suicide. The aforesaid allegations are very vague. Learned counsel for the applicants placed reliance on some decisions given on this point by this Court and also the Apex Court and they are as under :-

- I) **2016 ALL MR (Cri.) 4328**
(Dilip S/o Ramrao Shirasao and Others Vs. The State of Maharashtra)
- II) **2016 ALL MR (Cri.) 4357**
(Jagannath S/o Shidya Patil and Others Vs. The State of Maharashtra)

- III) **2010 ALL MR (Cri) 3248 (Supreme Court)**
(*Mohd. Ayub Dar Vs. State of Jammu and Kashmir*)
- IV) **2010 ALL MR (Cri) 3303 (S.C.)**
(*Chakali Maddilety and Others Vs. State of A.P.*)
- V) **2002 CRI. L. J. 2796**
(*Sanju alias Sanjay Singh Sengar Vs. State of M.P.*)

8. Though the facts and circumstances of each and every case are always different, in view of the facts of the present case, this Court holds that it will be abuse of process of law, if the applicants are made to face the trial for aforesaid offences. In the result, following order :-

ORDER

- 1. Application is allowed.
- 2. Relief is granted in favour of the applicants in terms of prayer clause 'C'.
- 3. Rule made absolute in above terms.

(S. M. GAVHANE, J.)

(T. V. NALAWADE, J.)

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