IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Criminal Application No.2059 of 2019

1) Rajiv s/o Laxmanrao Nikam,
Age 62 years,
Occupation : Business,
R/o. P-3, Balaji Nagar,
Aurangabad,
Taluka & District Aurangabad.

2) Krishna s/o Ravindra Patil,
Age 37 years,
Occupation : Service,
R/o Gangapur Road, Nashik,
Taluka and District Nashik.

3) Virendra s/o Rajiv Nikam,
Age 37 years,
Occupation : Service,
R/o Flat No.401, 4th Floor,
Suraj Sulafam Society,
Aurangabad,
Taluka & District Aurangabad. .. **Applicants.**

Versus

1) The State of Maharashtra
Through Police Inspector,
Jawahar Nagar Police Station,
Aurangabad,
Taluka & District Aurangabad.

2) Amol Dnyandeo Patil,
Age 34 years,
Occupation : Business,
R/o C-56, Tanhaji Chowk,
Shivshankar Colony,
Aurangabad,
District Aurangabad. .. **Respondents.**

Shri. Yogesh B. Bolkar, Advocate, for applicants.

Smt. V.N. Patil-Jadhav, Additional Public Prosecutor, for respondent No.1.

Shri. V.Y. Patil, Advocate, for respondent No.2.

Coram: T.V. NALAWADE &
M.G. SEWLIKAR, JJ.

Date: 09 DECEMBER 2019

JUDGMENT (Per T.V. Nalawade, J.):

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

2) The present proceeding is filed for quashing of FIR No.194/2019 registered with Jawahar Nagar Police Station Aurangabad for offences punishable under section 306 read with 34 of the Indian Penal Code. Crime is registered on the basis of report given by respondent No.2 – Amol Patil. Deceased Dnyandeo was father of Amol. Dnayndeo consumed poison on 10-5-2019 and he died on 14-5-2019 while receiving treatment in the hospital. F.I.R. came to be given on 20-5-2019.

3) In the F.I.R. Amol has made allegation that there were some business transactions between the applicants on one side and the deceased on the other and they were doing business of sale and purchase of landed property, plotting business. It is contended that about 4 to 5 years prior to the date of incident 55 R portion was purchased from Nakshtrawadi Gat Nos.2 and 11 and this land was purchased in the name of the informant, Virendra Nikam, Poonam Lohar and Bharati Mali. One-fourth portion was purchased in the name of Virendra Nikam and the purchase price was sent by Krishna Patil, son-in-law of Rajiv Nikam and that was sent to Dnyandeo (deceased), Sudam Gaikwad and Vithal Kale. It is contended that after few days, Rajiv Nikam said that he did not want the land and he wanted back the amount which was given as consideration. It is contended that deceased then gave Rs. 10 lakh in cash and transferred an amount of Rs.20 lakh by RTGS mode in the name of sister of Rajiv Nikam and that way he returned Rs.30 lakh. It is contended that at the time of cancellation of transaction some blank cheques were also given by the deceased to Rajiv Nikam. It is contended that the blank cheques were

not returned even when entire consideration was returned and by using the blank cheques Rajiv Nikam, Virendra Nikam and Krishna Patil were giving threats to the deceased. It is contended that due to these threats the deceased was under tension.

4) It is contended that about 5 years prior to the date of the incident the deceased had given Rs.17 lakh to one Pushpa Dixit and she had given promise to give appointment on some post to Bharti Patil, wife of the informant. It is contended that by way of security, Pushpa Dixit had given some cheques to the deceased but the job was not given and the amount was also not returned and due to that also the deceased was under tension.

5) It is contended by the informant that the deceased has left behind a suicide note in which aforesaid reasons for the suicide are mentioned by him. The suicide note was traced subsequently and it was produced before police. It is contended that due to harassment of the aforesaid persons the deceased committed suicide.

6) The applicant has produced record to show that in the return of the income tax the deceased had informed to the Income Tax Department for the financial year 2013-2014 that he owed amount to many persons like Krishna Patil (Rs 8 lakh), Pralhad Patil (Rs.9.9 lakh), Ashabai Patil (Rs.10 lakh) and HDFC Bank loan for vehicle (Rs.1.19 lakh). Learned counsel for the applicants submitted that the transaction of purchase of the landed property was old one. Copy of sale deed is produced on the record and it shows that transaction was made on 13-6-2012. Amol, the informant was shown as one of the purchasers and Virendra was also shown as the second purchaser. Even if the contention made by the informant and the contents of the suicide note are accepted as they are, it can be said that the transaction in respect of Virendra Nikam was cancelled and that portion was to go to the deceased but for that it was necessary for him to return the consideration amount. In respect of return of the consideration amount there are contentions of aforesaid nature. The Sale deed shows that the land was purchased in the name of Sai Buildcon and four persons were shown as partners of Sai Buildcon. Time was given to Sai

Buildcon to pay the consideration and that is mentioned in the sale deed. The amount which was to be paid by Sai Buildcon was Rs.3.06 crores.

7) The aforesaid contents of the F.I.R. and the contents of the so called suicide note left behind by the deceased show that the deceased had some grievance with regard to the transactions. The circumstance that he had given huge amount to one lady for getting job for his daughter-in-law also needs to be kept in mind. Due to these circumstances in the suicide note, he has mentioned that he was frustrated. Though he contended that these persons need to be blamed for his suicide and he was feeling that they had deceived him due to these transactions it cannot be said that there was intention as mentioned in section 107 of the Evidence Act of any of the applicants to abet the suicide. The transaction was very old, 4 to 5 years old and there is no record to show that misuse of the blank cheques was made by the applicants if the amount was really returned. Thus even if the contentions are accepted as they are, the offence of abetment of suicide cannot be made out. This Court holds

that it will be abuse of process of law if the applicants are made to face the trial for the aforesaid offence. In the result, following order:-

8) The application is allowed. Relief is granted in terms of prayer clause (B). Rule made absolute in those terms.

Sd/- Sd/-

(M.G. SEWLIKAR, J.) **(T.V. NALAWADE, J.)**

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