

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.2307 of 2019

* Prakash s/o. Dhoman Salunke (Patil)
Age 49 years, Occupation : Service
R/o. Presently serving at village
Talavadi, Taluka Taloda,
District Nandurbar
Permanent Resident at Plot No.21,
Jagtap Wadi, Nandurbar. **.. Applicant.**

Versus

- 1) The State of Maharashtra
Through Inspector,
Police Station Upnagar,
Taluka & District Nandurbar.
- 2) Kalpanabai Dinesh Patil,
Age 40 years, Occu: Housewife,
C/o Shaligram Lala Bachhav,
At Post Dahivel, Taluka Sakri,
District Dhule. **.. Respondents.**

Shri. Bharat R Waramaa, Advocate, for applicant.
Smt. V.N. Patil-Jadhav, Additional Public Prosecutor, for
respondent No.1.
Shri. V.G. Panpatil, Advocate, appointed for respondent
No.2.

**Coram: T.V. NALAWADE &
S.M. GAVHANE, JJ.**
Date: 13th NOVEMBER 2019

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

- 1) Rule. Rule made returnable forthwith. Heard
both the sides by consent for final disposal.

2) The present proceeding is filed for relief of quashing of the proceeding of RCC No.91/2019 which is pending in the Court of the learned Chief Judicial Magistrate Nandurbar and which is filed for offences punishable under section 306 read with 34 of the Indian Penal Code. Present applicant is shown as accused No.6 in the said matter. Present applicant is real brother of deceased Dinesh.

3) Record of investigation is available as it is produced along with the charge sheet. The record contains suicide note of deceased Dinesh. In the suicide note he has contended that persons like Dr. Kamlakar Patil, Jai Kamlakar Patil and Nitin Asaram Patil had assaulted him three times by entering his house and due to that he had sustained fracture over the rib of left side. It is mentioned in the suicide note that due to incident of assault he had approached police station but police had not taken action against these three persons. Then he had taken decision to commit suicide due to harassment of these three persons and he was blaming only these three persons. This Court has gone through the FIR given by his

widow Smt. Kalpanabai. She has mentioned in the report that present applicant used to visit their house and she had noticed that the applicant was selfish in nature when the deceased was social minded. She has contended that in the family, the relatives were not behaving properly with her husband. The close relatives like sister of the deceased namely Manishabai and her husband Kamlakar were instigating others to harass the deceased. In her FIR she has mentioned the incident in which Dinesh was assaulted by these persons and about report given by Dinesh against those persons. In the FIR there is mention of present applicant at two places. First mention is about his nature and the last mention is of vague nature that the present applicant is also responsible for the suicide of the deceased. There are statements of two daughters of the deceased but they are of the similar nature.

4) The post mortem report shows that death took place due to hanging. FIR was given on 27-12-2018. The first incident of assault on the deceased took place on 29-8-2018 and the death took place between 31-10-2018 and

3-11-2018. The dead body was found in decomposed condition and no other person was present in the house in the company of Dinesh. The material collected shows that present applicant Prakash was not living with Dinesh and there are allegations of aforesaid nature. When the deceased himself has not blamed present applicant for his suicide, nothing can be achieved if the widow of the deceased gives evidence of the aforesaid nature against present applicant. It will be abuse of process of law if the present applicant is asked to face the trial for offence punishable under section 306 read with 34 of the Indian Penal Code.

5) In the result, the application of the present applicant is allowed. Relief is granted in terms of prayer clause (A) and the charge sheet is quashed only in respect the applicant. The fees of the learned counsel appointed is quantified at Rs.3000/- and it is to be paid by the High Court Legal Services Sub Committee Aurangabad. Rule made absolute in those terms.

Sd/-
(S.M. GAVHANE, J.)
rsl

Sd/-
(T.V. NALAWADE, J.)