

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

CRIMINAL APPLICATION NO. 2852 OF 2019

1. Ganesh S/o. Suresh Gapat, **...APPLICANTS**
Age-28 years, Occu-Agri,
2. Swapnil S/o. Suresh Gapat,
Age-26 years, Occu- Agri,
3. Suresh S/o. Pandit Gapat,
Age-50 years, Occu-Agri,
4. Seema W/o. Suresh Gapat,
Age-45 years, Occu-Agri,

All R/o. Indapur, Tq. Washi,
Dist. Osmanabad

VERSUS

1. The State of Maharashtra, **...RESPONDENTS**
Through Washi Police Station,
Tq. Washi, Dist. Osmanabad
2. Anita W/o. Navnath Kumbhar,
Age-39 years, Occu-Household,
R/o. Kumbhar Galli, Washi,
Tq. Washi, Dist. Osmanabad

Mr. Shrikant G. Kawade, Advocate for the applicants
Mr. A. R. Kale, APP for the respondent/State
Mr. S. B. Chaudhari, Advocate for respondent No. 2

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

DATE : 14-11-2019

ORAL JUDGMENT : [PER : T. V. NALAWADE, J.]

. Rule. Rule made returnable forthwith. With the consent of the parties the matter is heard finally.

2. Proceeding is filed for grant of relief of quashing of FIR bearing No. 138 of 2019 dated 30-06-2019 registered with Police Station Washi, Dist. Osmanabad for the offences punishable under Sections 306, 506 read with Section 34 of the Indian Penal Code. Crime is registered on the complaint given by respondent No. 2 Smt. Anita. Deceased Navnath was her husband. On 22-05-2019 she had left for Osmanabad to see her uncle who was ailing. There she received a call that some incident had taken place. When she rushed back to home, she noticed that her husband had committed suicide by hanging himself. He had left behind a note in which he had mentioned that as he was tired and fed-up of the loan taken from money lenders he was committing the suicide. Exact words of note are as follows : सावकारी कर्जाला कंटाळून फाशी. नवनाथ कुंभार. When the incident took place on 22-05-2019, FIR came to be registered on 29-06-2019. In the FIR, it is mentioned that her daughter informed her that on 22-05-2019 at about 05.00 pm when her daughter and mother-in-law Shantabai were at home Ganesh Gapat and Swapnil Gapat both resident of Indapur, Tq. Washi had come to the house and they had said to Namrata that they had demanded the money from her father but he was not paying the money and they had asked her about where about the deceased. On 23-06-2019 after the incident when informant, her daughter and her in-laws were at home according to her, Suresh Gapat and his wife came to the

house and they said that Navnath had not given their money and so they should give their money and they had given threat that they would commit suicide if their money is not given. Then, when the incident took place on 23-06-2019, she gave a report on 29-06-2019.

3. Today joint compromise pursis signed by Anita and the applicants came to be filed. There is an affidavit of Anita to effect that they have settled the dispute. Contents of the affidavit show that the applicants have promised not to make a claim of any amount from Anita and they will not file any civil proceeding for recovery of amount which was due to them from the husband of Anita.

4. Learned APP submitted that there is a statement of Anita recorded under Section 164 of the Code of Criminal Procedure. If Anita herself does not want to give evidence against the accused, that statement cannot be used against the accused as the statement has only corroborative value and it is not substantive piece of evidence.

5. Learned APP placed reliance on the observations made by the Apex Court in the case reported as *State of Madhya Pradesh Vs Dhruv Gurjar and another and reported in AIR 2019 SC 1106*. The facts and circumstances in each and every criminal case are always different. In view of the facts of that matter, on merits it was held that it was not possible to quash the criminal proceeding.

Relevant facts of the present matter are already quoted.

6. Aforesaid so called suicide note left by the deceased cannot make out the case of abetment of suicide. Hence the following order is passed:

ORDER

- I. Criminal application is allowed.
- II. Relief is granted in terms of prayer clause (B).
- III. Rule is made absolute in those terms.

[S. M. GAVHANE, J.]

[T. V. NALAWADE, J.]