

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 201 OF 2019

Ahmad Abdul Shakur Inamdar
Age:- 45 years, Occ. Service,
R/o. Khorl Galli, Latur
Tq. & Dist. Latur

...APPLICANT.

Versus

1. The State of Maharashtra,
Through the Police Officer,
Shivaji Nagar Police Station,
Latur, Tq. & Dist. Latur,
2. Hema W/o Dattatraya Waghmare,
Age:- 35 years, Occ. Household,
R/o. Vitthal Nagar, Behind Bus Depot,
Near Mhasoba Temple, Latur
Tq. & Dist. Latur

...RESPONDENTS.

...

Mr. P.P. More, Advocate for Applicant.

Mr. M.M. Nerlikar, APP for Respondent/State

...

**WITH
CRIMINAL APPLICATION NO. 132 OF 2019**

Suresh S/o Dnyaneshwar Lahane
Age:- 55 years, Occu: Business & Social work,
Resi. Of : 'Padmasurya' New Renapur Naka,
Ambejogai Road, Latur,
Tq. & Dist. Latur,

...APPLICANT.

Versus

1. The State of Maharashtra,
Through Police Inspector,
Shivaji Nagar Police Station,
Latur, Tq. & Dist. Latur,

2. Hema W/o Dattatraya Waghmare,
Age:- 35 years, Occ. Household,
Resi, of : Vitthal Nagar, Behind Bus Depot,
Near Mhasoba Temple, Latur
Tq. & Dist. Latur **...RESPONDENTS.**

...

Mr. V.D. Godbharle, Advocate for Applicant.

Mr. M.M. Nerlikar, APP for Respondent/State

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WITH
CRIMINAL APPLICATION NO. 19 OF 2019

Shivraj S/o Sopanrao Patil,
Age-65 years, Occu. Agri.,
R/o. Vishwa Super Market,
Ausa Road,Latur,
Tq. And Dist. Latur. **...APPLICANT.**

Versus

1. The State of Maharashtra,
Through: Police Station Officer,
Shivaji Nagar Police Station Latur,
Tq. And Dist. Latur.
2. Hema W/o Dattatraya Waghmare,
Age:- 35 years, Occu. Household,
R/o Vitthal Nagar, Behind Bus Depot,
Latur, Tq. & Dist. Latur. **...RESPONDENTS.**

...

Mr. K.J. Ghute Patil, Advocate for Applicant.

Mr. M.M. Nerlikar, APP for Respondent/State.

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WITH
CRIMINAL APPLICATION NO. 18 OF 2019

Shivaji S/o Narsing Bhosale,
Age: 70 years, Occu: Retired,

R/o Kailas Nagar,
Behind Rachmale Hospital,
Barshi Road, Latur,
Tq. & Dist. Latur.

...APPLICANT.

Versus

1. The State of Maharashtra,
Through: Police Station Officer,
Shivaji Nagar Police Station, Latur,
Tq. And Dist. Latur.
2. Hema W/o Dattatraya Waghmare,
Age:- 35 years, Occu. Household,
R/o Vitthal Nagar, Behind Bus Depot,
Latur, Tq. & Dist. Latur.

...RESPONDENTS.

...

Mr. K.J. Ghute Patil, Advocate for Applicant.

Mr. M.M. Nerlikar, APP for Respondent/State

...

WITH
CRIMINAL APPEAL NO. 725 OF 2018

Hema W/o Dattatraya Waghmare,
Age:- 35 years, Occu. Household,
R/o Vitthal Nagar, Behind Bus Depo,
Latur, Tq. & Dist. Latur.

...APPELLANT.

Versus

1. The State of Maharashtra,
Through its P. I. Police Station
Shivaji Nagar, Latur,
District Latur.
2. Ahmad Abdul Sakur Inamdar,
Age 48 years, Occu: Service,
R/o Mumtaz Urdu Primary School,
Bhurhan Nagar, Malvati Road, Latur,
OR Saroj Apartment, Behind Chiranjivi
Hospital, Nandi Stop, Latur,
Tq. & District Latur.

3. Shivaji S/o Narshing Bhosale,
Age: 70 years, Occu: Retired,
R/o Kailas Nagar, Behind Rachmale
Hospital, Barshi Road, Latur,
Tq. & District Latur.
4. Bharat S/o Venkatrao Barure,
Age 62 years, Occu: Agril,
R/o Dnyaneshwar Nagar, Opp.
S.T. Workshop, Ambajogai Road,
Latur, Tq. & District Latur.

...RESPONDENTS.

...

Mr. S.G. Joshi, Advocate for Appellant.

Mr. M.M. Nerlikar, APP for Respondent No. 1/State

Mr. P.P. More, Advocate for Respondent No.2.

Mr. K.J. Ghute Patil, Advocate for Respondent No.3.

Mr. V.D. Godbharle, Advocate for Respondent No.4.

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WITH
CRIMINAL APPEAL NO. 726 OF 2018

Hema W/o Dattatraya Waghmare,
Age:- 35 years, Occu. Household,
R/o Vitthal Nagar, Behind Bus Depo,
Latur, Tq. & District: Latur.

...APPELLANT.

Versus

1. The State of Maharashtra,
Through its P. I. Police Station
Shivaji Nagar Latur,
District Latur.
2. Shivraj S/o Sopanrao Patil,
Age: 65 years, Occu: Agril,
R/o Vishwa Super Market,
Ausa Road, Latur, Tq. & District
Latur.

3. Prasad S/o Vyankayya Gunji,
Age: 43 years, Occu: Labour Contractor,
R/o Renkua Nagar, Ambajogai Road,
Latur Tq. & District Latur.
4. Suresh S/o Dnyaneshwar @ Dnyanoba Lahane,
Age 55 years, Occu: Business (Govt. Contractor)
R/o New Renapur Naka,
Latur, Tq. & District Latur. **...RESPONDENTS.**

...

Mr. S.G. Joshi, Advocate for Appellant.

Mr. M.M. Nerlikar, APP for Respondent No. 1/State.

Mr. P.P. More, Advocate for Respondent No.2.

Mr. P.V. Barde, Advocate for Respondent No.3

Mr. V.D. Godbharle, Advocate for Respondent No.4.

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**CORAM : T.V. NALAWADE AND
MANGESH S. PATIL, JJ.**
DATED : 29/03/2019.

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

1) Rule in criminal applications, made returnable forthwith and appeals are admitted. After Rule in criminal applications and admission of appeals, by consent, heard both the sides for final disposal.

2) The first four proceedings are filed for relief of quashing of F.I.R. No.221/2018 registered with Shivaji Nagar Police Station, Latur for offences punishable under sections 306, 34 of Indian Penal Code and sections 3 (2)(v) of the Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act, 1989. Other two proceedings are filed for relief of cancellation of anticipatory bail granted in favour of respondents of those matters by the Sessions Court in the same crime and the proceedings are filed by the first informant.

3) The crime is registered on the basis of report given by widow of deceased. The deceased was doing some business in a shed. He had some business transactions with the accused. According to the widow, the deceased was anxious and disturbed for more than six months from prior to the incident as the accused persons had not given the money in respect of the articles purchased from the deceased on credit basis. She used to hear conversation which the deceased was having with the accused on phone.

4) on 11.8.2018 the deceased left home at about 7.30 a.m. for shop. After some time, one Salim came to the house of deceased and informed that something had happened in the shop. When they went to the shop, they noticed that the deceased had committed suicide by hanging himself. She gave report to police against many persons on 15.8.2018. It is her contention that in the diary of deceased, there were as many as 9 names, who owed some amount

to the deceased. She informed that in the same diary, the deceased had written that as the accused persons were not giving the dues, he was disturbed.

5) This Court had occasion to consider the entire material collected by the police while deciding **Criminal Application No.2858/2018 [Bharat s/o. Venkatrao Barure Vs. The State of Maharashtra and Anr.] decided on 4.12.2018**. The proceeding which was filed by Bharat Barure was allowed by this Court by making following observations in paragraph Nos. 4 and 5 :-

"4) The incident in question took place on 11.8.2018. The deceased left home at 7.30 a.m. for shop. After some time, friend of deceased by name Saleem Shaikh came to the first informant and he informed that some untoward incident had taken place in the shop. When they went to shop, they found that the deceased had committed suicide by hanging himself in shop. It is contended by the first informant that before committing suicide, the deceased had sent his diary to his brother in law and father in law and in that diary, there were names of present applicant and others including their mobile phone numbers and the deceased had written the amount which was due from those persons. As against the name of present applicant Shri. Bharat, amount of Rs. 1.3

lakh was written. It was written in the diary that he had applied for loan to the company of Rakesh Sharma, Mahesh Tripathi and Mathur, but they had not passed the loan and payment was not made to him. He has allegedly written that due to the aforesaid reasons like non payment of the charges of the goods and not sanctioning of the loan, he had taken decision to put an end to his life. This diary was taken over by the police and on the basis of that diary, the offence is registered under aforesaid sections.

5) This Court has carefully gone through the so called suicide note. Though the name of applicant appears in the diary along with names of other persons, the so called suicide note does not show that they were harassing the deceased. The writing shows that only due to the aforesaid circumstances, he was taking the decision of suicide. If amount was due from some customers, in ordinary course, the deceased ought to have taken proper action in Court for recovery of amount. The submissions made and the record does not show that there is anything with the prosecution to show that these persons had made purchases on credit basis from the deceased. Only because such record is there, it cannot be said that the applicant owed some amount to the deceased and he was harassing the deceased. The material

on record if it is considered as it is does not make out the case of abetment of suicide. The evidence of widow will also be of hearsay nature. If the contentions of aforesaid nature are considered as they are, it can be said that if she had heard some conversation, she had no opportunity to know the name of the person who was talking with her husband from other side. This Court holds that it will be abuse of process of law, if the applicant is directed to face the trial for the aforesaid offences. In the result, the application is allowed. Relief is granted to the applicant in terms of prayer clause 'A'. Rule is made absolute in those terms."

The name of Bharat was mentioned as one of the nine persons and allegations against the present applicants, who have come for similar relief, are not different. So, this Court holds that they are entitled to get the relief.

6) For the aforesaid reasons, it cannot be said that the learned Judge of the Sessions Court has committed any error in granting relief of anticipatory bail to the applicants. This Court holds that it is not possible to interfere in the order made by the learned Additional Sessions Judge. In the result, following order :-

O R D E R

(I) Criminal Application Nos. 201, 132, 18 and 19 of 2019 are allowed. Relief is granted in terms of prayer clause 'C' in Criminal Application No.201/19, in terms of prayer clause 'A' in Criminal Application No.132/19 and in terms of prayer clause 'B' in Criminal Application Nos. 18 and 19 of 2019. Rule is made absolute in those terms.

(II) Criminal Appeal Nos. 725 and 726 of 2018 stand dismissed.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/