

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 1766 OF 2018

1. Arunkumar Fakirchand Shingi,
Age 52 years, Occ. Business,
R/o Vivekanand Nagar, Newasa,
Tq. Newasa, Dist. Ahmednagar.
2. Gaurav Arunkumar Shingi,
Age 22 years, Occ. Education,
R/o Vivekanand Nagar, Newasa,
Tq. Newasa, Dist. Ahmednagar.

... PETITIONERS

VERSUS

1. The State of Maharashtra,
Through Police Station, Newasa,
Tq. Newasa, Dist. Ahmednagar.
2. Ashok Bhagaji Rajgire,
Age: 50 years, Occ. Service,
R/o Vivekanand Colony, Newasa,
Tq. Newasa, Dist. Ahmednagar.

[Added Resp.No.2 as per
Courts order dated 04/06/19.]

... RESPONDENTS

...
Mr. Kishorkumar B. Borde, Advocate for Petitioners.

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

Mr. K. R. Gavhane, Advocate for Respondent No.2 (Appointed).

...

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

DATE : 29th November, 2019.

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

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

2 The proceeding is filed for relief of quashing of FIR No.637 of 2018, registered with Newasa Police Station, District Ahmednagar, for the offences punishable under Sections 306, 504 and 506 read with 34 of the Indian Penal Code and also charge-sheet filed in the crime, which is given R.C.C. No.192 of 2019, pending before the Judicial Magistrate First Class, Newasa.

3 The crime was registered on the basis of report given by Respondent No.2 (Ashok Rajgire). Deceased (Onkar) was son of Ashok Rajgire. The incident in question took place on 24th September, 2018 after 08:00 pm. When the wife of Ashok went upstairs to call Onkar for having dinner, Onkar said that he had taken dinner outside. After taking dinner by other members of the family, when the wife of informant again went upstairs, she noticed that Onkar had closed the door from inside by putting latch on the door. When she pipped through the window, she noticed that Onkar was not present on the bed but the lights were on. Then she opened the door

of the window by using her hands and she noticed that Onkar had committed suicide by hanging himself at the pipe of the roof. When she shouted, the members of the family and others rushed. They opened the door by using force. They took Onkar down from the place of hanging and they shifted Onkar to hospital with the hope that he was alive, but the doctor declared that he was already dead.

4 It is the contention of informant that when he tried to ascertain the reason for suicide of Onkar, he learnt that in the incident dated 24th September, 2018, the day of immersion of Ganesh idols, one incident had taken place. On that day, a pickup vehicle of Petitioner No.1 was used by Onkar and his friends for immersion purpose and when they were returning from the place of immersion, the vehicle had given dash to a house and the vehicle was damaged. Petitioner No.2 (Gaurav) is son of Petitioner No.1 and he had sent photograph of damaged condition of he vehicle to Petitioner No.1. It is contended that as per the information of informant, Petitioner No.1 had then contacted Onkar and there were some conversations between them. According to him, as per his information, after that conversations, Onkar was feeling tension. However, in the FIR, it is mentioned that the boys had collected money for repair of the vehicle. According to the informant, Petitioner Nos.1 and 2 must have said

something to Onkar, which must have hurt him and due to that he must have committed suicide. When the incident took place on 24th September, 2018, FIR came to be given on 10th October, 2018.

5 The papers of investigation contain statements of the friends of Onkar. There are some statements showing that even prior to 24th September, 2018, Onkar was under tension and that was probably due to some family dispute.

6 The aforesaid allegations and the circumstance that on that day Onkar had caused accident of the vehicle of Petitioner No.1 and after that he had some conversations with Petitioner No.1, cannot make out a case of abetment of suicide. The aforesaid allegations, if they are accepted as they are, they will not be sufficient for making even *prima-facie* case of abetment of suicide. Nothing can be achieved by asking the Petitioners to face the trial for aforesaid offences. It will be abuse of process of law if the Petitioners are asked to face the trial. In the result, the following order is passed:

ORDER

- I. The petition is allowed.

- II. Relief is granted in terms of prayer clauses (B) and (B.1).
- III. The fees of the appointed counsel is quantified as Rs.3,000/- and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad
- IV. Rule is made absolute in those terms.

[S. M. GAVHANE, J.]

[T. V. NALAWADE, J.]

ndm