

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

CRIMINAL APPLICATION NO. 1275 OF 2020

1. Sanjivani w/o. Trimbak Dhengale,
Age 40 years, Occu. Household,
R/o. Bhimai Nagar, Sakund Road,
Ambajogai, Dist. Beed.
2. Bhumika w/o. Somnath Kamble,
Age 30 years, Occu. Household,
R/o. Bhimai Nagar, Sakund Road,
Ambajogai, Dist. Beed.

....Applicants.

Versus

1. The State of Maharashtra
Through the Police Station Officer,
Ambajogai Rural Police Station,
Dist. Beed.
2. Khatun Bashir Bagwan,
Age 40 years, Occu. Household,
R/o. Bhimai Nagar, Ambajogai,
Dist. Beed.

....Respondents.

Mr. S.M. Kamble, Advocate for applicants.

Mr. A.V. Deshmukh, APP for respondent No. 1/State.

Mr. Fayaz K. Patel, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
SHRIKANT D. KULKARNI, JJ.**

DATED : 02/11/2020.

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

- 1) Rule. Rule made returnable forthwith. By consent heard both the sides for final disposal.
- 2) Present proceeding is filed for relief of quashing of F.I.R.

No. 263/2019 registered at Ambajogai Rural Police Station, District Beed for offences punishable under sections 306, 327, 342, 452, 323, 506, 114 and 34 etc. of Indian Penal Code ('I.P.C.' for short). The crime is registered on the basis of report given by one Khatun Bashir Bagwan. Her marriage had taken place at about 22 years prior to the date of F.I.R. with Bashir Noor Bagwan. She has five daughters and one son. Her two daughters are married.

3) It is the contention of the informant that due to poor financial condition, her husband had taken loan of Rs.10,000/- from Akash Pokharkar. About seven months prior to the date of F.I.R. he had taken loan of Rs.5,000/- from Dinesh Chavan with promise to pay interest on it and the interest was to be paid at the rate of 5% p.m. It is contended that when attempt was made to return the amount, these persons had demanded interest at the rate of 20%. It is contended that these persons and the men employed by them were harassing her husband and they were asking to return money with interest at the rate of 20%. It is contended that these persons were giving threats to dispossess from the house for recovery of the amount.

4) It is the contention of informant that few days prior to the date of F.I.R. her husband had informed to her that some persons had forcibly taken amount of Rs.3,000/- from his pocket and they had given threat to teach him lesson if the remaining amount which was

due from him was not returned prior to 30.10.2019. There was threat that they would get transferred the house of informant in their name. It is her contention that her husband had expressed that he was feeling harassed due to the threats given by money lenders.

5) In the report, there is mention that present applicant Smt. Sanjivani and Smt. Bhumika had given loan of Rs.20,000/- to her husband about two years back and there was an agreement to pay interest at the rate of 5% p.m. It is contended that about one year back she had taken amount from her brother and she had returned the amount of Rs.30,000/- to this lady, but applicant Sanjivani had insisted that the interest at the rate of 20% should be paid and that way the amount of Rs.15,000/- was due. It is contended that every day these two ladies were visiting her house and were asking to pay daily Rs.1,000/-.

6) In the F.I.R., allegations are made against other persons like Ravi Jogdand that he was harassing to return money of Rs.18,000/- when the amount of only Rs.4,000/- was taken from him as hand loan. It is mentioned in the F.I.R. that on 14.10.2019 one person who was called by his neck name 'Sir' had assaulted her husband. It is her contention that on 16.10.2019 her husband left home after offering Namaz and he did not return to home. It is her contention that on 17.10.2019 when she started searching for husband, it was informed to her that near the lake *Chappals* of a

person were lying. It is her contention that she went to the lake and she identified the *Chappals* of her husband. It is contended that some persons then took out the dead body which had gone to the bottom of lake. In the report, she has made allegations as against eight persons that due to their harassment her husband committed suicide.

7) The applicants have produced some record to show that applicants are managing a Self Help Group of women. As per the record, the informant was member of that group. It was submitted that the group gives financial assistance to the members by way of loan and that amount is required to be repaid. It was submitted that these ladies had no concern with the husband of the informant, but only to avoid the liability towards Self Help Group the applicants are falsely involved in the matter.

8) The contentions made in the F.I.R. show that informant admits that they were facing financial crunch and her husband had taken loan from many persons. In such a case for using section 306 of I.P.C. section 107 of I.P.C. needs to be considered. In section 107 of I.P.C. it is mentioned that the abetment can be by aid, instigation or by conspiracy. In the matters like present one, the term 'instigation' can be used if there is some material to show that there was intentional instigation.

9) People help others who are in need of help by giving

loan, financial assistance. There is implied promise to return the money, may be with interest or without interest. If a person takes loan from many persons and he finds himself in such a situation that he cannot return money taken from so many persons, he feel helpless and in such a situation if he takes decision to commit suicide, the person who had given money though by way of loan to such person cannot be blamed and it cannot be inferred that there was intentional instigation to commit the suicide. In the present matter, there are only allegations of the widow of the deceased of aforesaid nature and she has roped around eight persons to whom they own money. It will be abuse of process of law if the persons like applicants are asked to face the trial for the offence of abetment of suicide. This Court holds that there is no material to infer that there was instigation as mentioned in section 107 of I.P.C. and so, the following order.

ORDER

- A) Application is allowed.
- B) Relief is granted to the applicants in terms of prayer clause 'B'.

Rule is made absolute in those terms.

[SHRIKANT D. KULKARNI, J.]

[T.V. NALAWADE, J.]

SSC/