

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 851 OF 2019

Sau. Tulsabai Ukheda Bhombe and others .V. State of Maharashtra, through
PSO, P.S. Jalgaon Jamod, Tq. Jalgaon Jamod, Dist. Buldhana.

WITH

CRIMINAL APPLICATION (ABA) NO. 871 OF 2019

Bhaskar Maroti Bombatkar .V. State of Maharashtra, through PSO, P.S.
Jalgaon Jamod, Tq. Jalgaon Jamod, Dist. Buldhana.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.D. Bhate, Advocate for applicants (ABA 851/2019).
Mr. S.V. Sirpurkar, Advocate for applicants (ABA 871/2019).
Mr. M.K. Pathan, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 09, 2020

CRIMINAL APPLICATION (APPP) NOS. 7/2020 IN ABA NO.
851/2019 AND ABA NO. 871/2019.

This is an application for assisting the prosecution
filed by the first informant.

For the reasons stated in the application, the
application is allowed. Mr. R.M. Patwardhan, learned
counsel is allowed to assist the prosecution.

The application is disposed of.

CRIMINAL APPLICATION (ABA) NO. 851 OF 2019 AND
CRIMINAL APPLICATION (ABA) NO. 871 OF 2019

These two applications are heard together and
decided simultaneously by this common order, in view of
the fact that the applicants in these two applications are
apprehending their arrest in connection with Crime

No.722/2019 registered with Police Station, Jalgaon Jamod, District Buldhana for an offence punishable under Sections 306, 294, 506 read with Section 34 of the Indian Penal Code (IPC).

Criminal Application (ABA) No. 851/2019 is filed by Tulsabai Ukharda Bhombe, Sarla Ukharda Bhombe and Santosh Ukharda Bhombe. They are represented through learned counsel Mr. A.D. Bhate.

Criminal Application (ABA) No. 871/2019 is filed by Bhaskar Maroti Bombatkar. He is represented through learned counsel Mr. S.V. Sirpurkar.

In both these applications, State is represented by Mr. M.K. Pathan, learned Additional Public Prosecutor and Mr. R.M. Patwardhan, learned counsel assisting the prosecution on behalf of first informant.

Applicant Bhaskar Bombatkar is police constable and attached to Police Station, Jalgaon Jamod.

Applicants in Criminal Application No. 851/2019 are residents of Asalgaon, Taluka Jalgaon Jamod which falls within the jurisdiction of Police Station, Jalgaon Jamod and are the neighbours of deceased Narayan.

Perusal of the reply filed on behalf of the prosecuting agency shows that in the year 2017, Tai Ukharda Bhombe filed a report against Narayan Bhombe which was registered as Crime No.358/2019 for an offence punishable under Sections 324, 504 and 506 read with Section 34 of the IPC. Similarly, Narayan Bhombe also filed a report culminating into registration of Crime No.357/2019

for an offence punishable under Sections 324, 504, 506 read with Section 34 of the IPC against Santosh Bhombe, who is applicant in Criminal Application No.851/2019. That shows that neighbours are at loggerheads.

Insofar as present Crime No.722/2019, in which the applicants are praying for pre-arrest bail, is lodged with Police Station by Arun Bhombe, brother of the deceased Narayan.

As per reply filed by prosecution, Arun brother of Narayan (deceased) has one son i.e. Purushottam. They reside jointly. Their neighbours are applicants in Criminal Application No.851/2019 along with one Tai Ukhada Bhombe.

As per prosecution case, on 26.11.2019, Purushottam, son of the deceased had been to his terrace guarding soybean kept on the said terrace from monkeys. That time quarrel arose in between him and the neighbour. According to report and the reply, Purushottam was abused in filthy language. Even his mother Savita was also abused by the neighbour.

Reply shows that the neighbour went to police station for lodging the report that time Purushottam and his mother Savita also reached. According to the prosecution case, at that time applicant Bhaskar in Criminal Application No.871/2019 was discharging his duty as Police Station Officer and he threatened his mother that they will be arrested. Upon that, there was verbal altercation between Purushottam, his mother Savita on one hand and head

constable Bhaskar Bhambatkar i.e. applicant in Criminal Application No.871/2019 on the other hand. According to reply, deceased Narayan tried to commit suicide by consuming poisonous substance due to the harassment by applicant-Bhaskar, a police constable and therefore he was rushed to Silver City Hospital at Khamgaon and ultimately succumbed on 01.12.2019. Reply would show that initially an offence was registered against Narayan for the offence punishable under Section 309 of the IPC and in that the bottle containing poisonous substance was already seized. Reply further shows that subsequent to the death of Narayan present crime is registered against the applicants in these two applications.

From the prosecution case which is presented before this Court through reply, it is clear that there used to be frequent quarrels in between members of deceased Narayan and family members of the applicants in Criminal Application No.851/2019 and there used to be lodging of counter FIRs against each other. Frequent quarrels between two neighbours, in my view, does not fall within the ambit of Section 107 of the IPC as it lacks instigation or abetment and that due to quarrels between the warring members of two families, someone would commit suicide.

Insofar as case of applicant Bhaskar Bombatkar is concerned, admittedly he was discharging his duty as Police Station Officer of Police Station, being a constable and two groups reached to police station for lodging complaints against each others and in that if the said Police Station

Officer is expressing that he is required to make arrests in cognizable offence, in my view, such a statement made by Police Station Officer cannot be termed as abetment or instigation to anybody to commit suicide.

It is revealed to this Court that two members of applicants in Criminal Application No.851/2019 i.e. Tai Ukharda Bhombe and Ukharda Bhombe were arrested and they are released on bail.

Narayan committed suicide by consuming poisonous substance, which is already seized.

From the discussion made in forgoing paragraphs, in my opinion, *prim facie*, there is no abetment or enticement by any of the applicants to Narayan to commit suicide. Applicants were protected by this Court vide orders dated 13.12.2019 and 18.12.2019 and they have already joined the investigation as directed by this Court by attending the police station. Thus, in my view, their applications can be considered favourably. Consequently, I pass the following order:

ORDER

(i) The Criminal Application (ABA) No. 851/2019 and Criminal Application (ABA) No. 871/2019 are allowed.

(ii) In the event of arrest in connection with Crime No.722/2019 registered with Police Station, Jalgaon Jamod, District Buldhana for an offence punishable under Sections 306, 294, 506 read with Section 34 of the Indian Penal Code, applicants in Criminal Application No.851/2019 i.e.

(1) Sau. Tulsabai Ukharda Bhombe, (2) Sarala Ukharda

Bhombe and (3) Santosh Ukharda Bhombe be released on bail on they executing P.R. bond in the sum of ₹15,000/- each with one solvent surety each in the like amount.

(iii) In the event of arrest in connection with Crime No.722/2019 registered with Police Station, Jalgaon Jamod, District Buldhana for an offence punishable under Sections 306, 294, 506 read with Section 34 of the Indian Penal Code, applicant in Criminal Application No.871/2019 i.e. Bhaskar Maroti Bombatkar be released on bail on he executing P.R. bond in the sum of ₹20,000/- with one solvent surety in the like amount.

The applications are disposed of.

JUDGE

srwagh