

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

CRIMINAL APPLICATION NO.1268 OF 2020

Chetan Bhatu Chaudhari

Applicant

Versus

01 The State of Maharashtra,
through Police Inspector,
Nandurbar City Police Station,
Tq. & District Nandurbar.

02 Roshana Hemant Jain

Respondents

Mr. R. S. Wani, advocate for the applicant

Mr. A. S. Shinde, A.P.P. for Respondent No.1-State

Mr. R. N. Jain, advocate for Respondent No.2

**CORAM : SUNIL P. DESHMUKH &
NITIN B. SURYAWANSHI, JJ.**

DATE : 06th September, 2021.

PC :

1. The applicant, who is accused no.3 in the First Information Report at CR. No.319 of 2020, registered with Nandurbar City Police Station, Tq. & District Dhule, for the offences punishable under Sections 306, 504 and 506 read with Section 34 of the Indian Penal Code, seeks quashing of the First Information Report and further proceedings of RCC No.154/2020, pending in the Court of Chief Judicial Magistrate, Nandurbar.

2. At the instance of Respondent No.2/Informant, the impugned First Information Report came to be registered wherein it is alleged that the son of the informant, namely Dipesh had obtained loan of about Rs.2.50 lakhs to Rs.3.00 lakhs from Meet Mukesh Gosaliya in the year 2019. Meet Gosaliya and his associates used to abuse Dipesh for paying interest on the loan amount obtained by him. Sometimes, even husband of the informant was being threatened. The said transaction was settled by the husband of the informant. On 16.05.2020, at about 10.00 a.m., Meet Gosaliya sent Sagar Mali to demand money from Dipesh. Sagar Mali had threatened and abused Informant's husband Hemant in respect of loan obtained by Dipesh. At that time, informant and her husband came to know that Dipesh had again obtained loan from Meet Gosaliya. On 19.05.2020, Dipesh was under tension and did not eat his dinner. On 20.05.2020 at about 05.15 a.m., Dipesh was found hanging in his room with the help of Nylon rope. It is further stated in the First Information Report that Meet Gosaliya and his associates were repeatedly causing mental harassment to Dipesh due to which, he committed suicide. At the time of committing suicide, he had written a suicide note, which the informant produced before the investigating agency.

3. The learned advocate for the applicant, by placing reliance on the decision of the Hon'ble Supreme Court in the case of **M. Mohan Vs. State, represented by the Deputy Superintendent of Police**, (2011) 3 SCC 626, vehemently submitted that there is no material to frame charge against the applicant under Section 306 of the Indian Penal Code. There is no *mens rea* attributable to the applicant that he abetted the suicide of Dipesh. According to him, the ingredients of abetment are absent in the material collected by the prosecution. He, therefore, submitted that since the charge under Section 306 of the Indian Penal Code, levelled against the applicant, is groundless, continuation of the proceedings against the applicant is an abuse of process of law and the proceedings are liable to be quashed and set aside. In support of his contention, he further relied upon the decision of the Hon'ble Supreme Court in the case of **Rajesh Vs. State of Haryana** (Criminal Appeal No.93 of 2019, decided on 18.01.2019). The learned advocate for the applicant submitted that the allegations made in the First Information Report are so absurd and baseless, that on the basis of the same, no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the applicant.

4. The learned A.P.P., on the other hand, has opposed the

prayer contending that there is sufficient material on record to show that the applicant has abetted suicide of Dipesh. By placing reliance on the suicide note, he pointed out that the deceased was forced to commit suicide due to constant threats to life and abuses in the name of his mother being given to Dipesh by the applicant and his other associates. The learned A.P.P. has submitted that name of the applicant is clearly mentioned in the suicide note. He, therefore, submitted that there is no merit in the present application and the application deserves to be dismissed.

5. The learned advocate for Respondent No.2/Informant has adopted the arguments of the learned A.P.P. By placing, reliance upon the decision of the Hon'ble Supreme Court in the case of **Didigam Bikshapathi & another Vs. State of Andhra Pradesh**, (2008) 2 SCC 403, he submitted that it was because of the constant harassment by the applicant and other associates, the deceased was compelled to commit suicide. He has, therefore, submitted that the application deserves to be dismissed.

6. The record indicates that the applicant and his associates were constantly pressurizing the deceased and his father by demanding money. In the suicide note, the deceased has

specifically mentioned that he was compelled to commit suicide as Sagar Mali, applicant-Chetan Chaudhari, Ravi Mahajan, Bilsing (Gopal Mali) were giving constant threats to kill him on account of money and daily they used to abuse him in the name of his mother, because of which, he was compelled to commit suicide. Thus, the suicide note clearly states that the deceased Dipesh took extreme step to take away his own life because he was unable to bear the pressure of the applicant and his associates. The suicide note clearly refers to the background in which the victim took extreme steps of taking away his own life by committing suicide. In **Didigam Bikshapathi** (*supra*), it is observed thus:

“In the instant case, the suicide note clearly refers to the acts of the appellant-accused and the roles played by them. Therefore, the High Court rightly rejected the prayer of exercise of power under Section 482 of the Code.

The powers of the High Court under Section 482 of the Code of Criminal Procedure are not to be exercised to stifle a legitimate prosecution. The High Court, being the highest Court of a State, should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the

Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage.”

8. The decisions in **M. Mohan** (*supra*) and **Rajesh** (*supra*) would not help the case of the applicant in the peculiar facts which are narrated in the above paragraphs. Considering the suicide note and the ratio in **Didigam Bikshapathi** (*supra*), we are of the considered view that the applicant and his associates are specifically named in the suicide note and the active role played by them is also disclosed. In that view of the matter, we are not inclined to entertain the prayer of the applicant. The Application, being devoid of any substance, is dismissed.

10. We make it clear that the aforesaid observations are *prima facie* and the learned trial Judge shall not get influenced by the same at the time of conducting the trial.

(NITIN B. SURYAWANSHI)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE

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