

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

CRIMINAL APPLICATION NO. 1985 OF 2020

Rohan Chandrasen Dongare,
Age 28 years, Occ. Service,
R/o. At post Dongarewadi Tq.
Wadwani, Dist. Beed.

**... APPLICANT
(Org. accused No. 2)**

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Police Station Pachod, Dist. Aurangabad.
- 2) Rahul Vitthal Aagale,
Age 18 years, Occ. Education,
R/o. Georai (Bk.) Paithan, Pachod,
Tq. Paithan, Dist. Aurangabad.

**... RESPONDENTS
(No. 2- Org. Complainant)**

...

Advocate for Petitioner : Mr. S. G. Chapalgaonkar h/f Mr. M.R. Deshmukh.
APP for Respondent No. 1: Mr. S. J. Salgare.
Advocate for Respondent No. 2 : Mr. Amit Savale (Appointed).

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**WITH
CRIMINAL APPLICATION NO. 1991 OF 2020**

Ramesh Digambar Ingole,
Age 43 years, Occ. Service,
R/o. Ring Road, Ambejogai,
Tq. Ambejogai, Dist. Beed.

**... APPLICANT.
(Org. accused No. 3)**

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Police Station, Pachod, Dist.
Aurangabd.
- 2) Rahul Vitthal Aagale,
Age 18 years, Occ. Education,
R/o. Georai (Bk.) Paithan, Pachod,
Tq. Paithan, Dist. Aurangabad.

**... RESPONDENTS
(No. 2- Org. Complainant)**

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Advocate for Petitioner : Mr. S. G. Chapalgaonkar, h/f Mr. M.R. Deshmukh.

APP for Respondent No. 1: Mr. S. J. Salgare.

Advocate for Respondent No. 2 : Mr. Amit Savale (Appointed)

**CORAM : DIPANKAR DATTA, CJ &
MANGESH S. PATIL, J.**

DATE : 30.09.2021

JUDGMENT (PER : MANGESH S. PATIL, J.) :

Heard. Rule. The Rule is made returnable forthwith. With the consent of both the sides the matters are heard finally at the stage of admission.

2. The Applicants are invoking the powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.PC.') seeking quashment of the F.I.R. dated 03.12.2019 in Crime No. I-360/2019, registered with Police Station Pachod, District Aurangabad, for the offences punishable under Section 306, 504, 506 read with Section 34 of the Indian Penal Code, filed by the respondent No. 2.

3. Since the applicants are arraigned as co-accused seeking the same relief, these applications are being disposed of by this common judgment.

4. The applicants are the Professor and Principal respectively of Gurukrupa Institute of Pharmacy, Majalgaon. The deceased was a student of that College. Because of his illness he was irregular in attending the classes. When he tried to resume, the applicants started harassing him. Even the Chairman of the Management indulged in harassing him mentally. Due to which he went into depression. His parents provided him medical treatment but he was persistently harassed, taunted and teased. He was prevented from appearing for third semester examination. Thereafter the applicant-Principal even demanded money from him to permit him to appear for the

examination. When he used to approach the applicant-Principal soliciting signature to enable him to appear for the examination he would be directed to meet the other applicant and in this manner he was tossed from one applicant to the other. Even he was insulted in front of the staff members. He was threatened that he would be failed. Even they contacted his landlord and caused him to vacate the tenanted premises. Even his landlord played him the recorded conversation between the applicants and the landlord. He then tried to commit suicide by going to a place but having seen that there was a crowd he decided to go back.

5. It is also alleged that his parents has deposited Rs. 20 Lakhs with a Multi-State Co-Operative Bank. The Chairman of the bank and its Manager fraudulently shown only an amount of Rs. 8,00,000/- having been credited to their account. This also mentally disturbed the deceased. When he approached the Chairman and the Manager of the bank they threatened and insulted him.

6. He took treatment at CIIGMA Hospital and from one Dr. Chapalgaonkar. After getting well when he tried to resume the classes he was not permitted. Fed up with all such persistent harassment he committed suicide by jumping into a well in his field on 01.12.2019 leaving behind a note-book containing description as to the nature of the harassment meted out to him not only by the applicants but even the other accused i.e. the Chairman of the applicants' College as well as the Bank Manager and the Chairman of the Multi-State Co-Operative Bank. The respondent No. 2 accordingly lodged the F.I.R. and the offence has been registered. It is his version that the deceased had told him about the harassment meted out to him.

7. The learned advocate Mr. Chapalgaonkar for the applicants would submit that accepting the allegations at their face value, necessary ingredients for constituting the offences cannot be made out. Even if it is

accepted that the deceased was harbouring some feeling about the applicants having harassed him mentally, the allegations would fall short of making out any abetment of suicide within the meaning of Section 107 of the Indian Penal Code. If the deceased was merely called upon to be punctual, no motive can be attributed to the applicants much less to drive him to commit suicide. There was no instigation or intentional aid. Therefore, there is no *prima facie* material to show that the applicants have abetted the suicide.

8. Learned advocate Mr. Chapalgaonkar would then submit that there is material on record to corroborate the stand in the F.I.R. that the deceased was suffering from some mental illness and was taking treatment therefor. A suicidal tendency was noted by the doctor and if that is so, there is every room to believe that independent of the alleged harassment meted out to him by the applicants, there could have been a distinct cause for the deceased to commit suicide in the form of depression.

9. The learned advocate in this respect would further point out that going by the allegations in the F.I.R., there was one more grievance being put forth by the deceased about the two of the accused who are the Chairman and the Manager of the Multi State Co-Operative Bank had also played some fraud and had duped his parents. This would again constitute an additional factor which, may be in addition to the alleged harassment meted out by the applicants, was a causative factor. If that be so, one cannot *prima facie* attribute the applicants with the allegations regarding abetment of suicide.

10. Mr. Chapalgaonkar would further submit that a coordinate Bench of this Court in Criminal Application No. 4298/2019 dated 20.10.2020 has already quashed the F.I.R. in respect of the accused No. 1, who happens to be the President of the Society which runs the applicants' College. The learned advocate would submit that there is no material difference in the

allegations being attributed against that accused and the applicants. Therefore, even for this reason, the applicants are entitled to the same relief.

11. In support of his submissions Mr. Chapalgaonkar places reliance on the following decisions :

- (i) *Madan Mohan Singh Vs. State of Gujarat, and another;*
(2010) 8 Supreme Court Cases 628.
- (ii) *S.S. Cheena Vs. Vijaykumar Mahajan;*
2010 ALL M.R. Criminal 3298 .
- (iii) *Dilip Ramrao Shirasao Vs. State of Maharashtra;*
2016 ALL M.R. Criminal 4328.

12. The learned A.P.P at the outset submits that already the investigation is completed and even a charge-sheet has been filed and therefore the prosecution deserves to be given an opportunity to substantiate its allegation which can happen only during the trial. Therefore, the applications may be dismissed for this sole reason.

13. The learned A.P.P would then submit that there is a suicide note which runs into several pages inter alia describing different incidents attributing specific and precise role to each of the applicants. A cumulative effect of reading all these allegations unerringly point out that the applicants did put him to some harassment leading to mental disturbance. The fact that he was required to take a treatment of a Psychiatric further corroborates this inference. The inferences sought to be drawn are clearly based on the contents of the suicide note. The deceased was put to harassment to the extent that he could not sustain the pressure and committed suicide. He would further point out that the suicide note also refers to an incident in the proximate time of suicide. He would therefore submit that in view of such peculiar state of affairs, the applicants are not entitled to derive any benefit from the decisions cited on their behalf. The situation would be squarely

covered by the decision in the case of **Didigam Bikshapathi and another Vs. State of Andhra Pradesh; (2008) 2 Supreme Court Cases 403**, wherein under similar set of facts where there was suicide note clearly referring to the acts of the accused and the roles played by them, the decision of the High Court refusing to quash the crime was upheld.

14. The learned advocate for the respondent No. 2 submits that at this juncture no threadbare scrutiny can be resorted to. The suicide note indicating the nature of the harassment to which the deceased was subjected to is *prima facie* sufficient to attribute the allegations of abetment and the F.I.R. may not be quashed.

15. We have carefully considered the rival submissions and perused the charge-sheet as also the decisions cited at the Bar. True it is that this is not a stage to resort to and scan through the charge-sheet to find out as to if the material collected by the Investigating Officer would ultimately be sufficient to convict the applicants. That is not the purport and scope of the present enquiry.

16. However, simultaneously one needs to bear in mind that the material needs to be scanned to ascertain if *prima facie* all the ingredients for constituting the offences can be made out. There is a suicide note which refers to and attributes some acts to each of the accused persons including the applicants. There is a reference about how the applicants refused him permission to resume the classes. He was teased and taunted in front of the staff members. He was not permitted to appear for the third semester examination and even there was a demand for money by one of the applicants. These allegations certainly would demonstrate that *prima facie* the deceased was harbouring a feeling about the harassment at the hands of the applicants, and for that matter the other accused as well. However, unless there is some material to demonstrate that such harassment allegedly meted out to him was the only cause for him to commit suicide as

distinguished from a *causa causan*, we are afraid, the allegations would fall short of making out and attributing the applicants with necessary animus either to instigate the deceased to commit suicide or to intentionally aid him to take that drastic step. Since the offence punishable under Section 306 of the Indian Penal Code requires that there should be abetment, the abetment as defined under Section 107 of the Indian Penal Code needs to be borne in mind. It involves a mental process of instigating a person or intentionally aiding him to do something. Assuming for the sake of arguments that as alleged in the suicide note the applicants had harassed the deceased, still, the material is too short to draw any inference that they were intending to lead him to commit suicide while subjecting him to such harassment.

17. Independently also we have perused the entire charge-sheet and particularly the statements of the parents of the deceased, his classmates and his landlord. The parents do not state about having any direct knowledge about the harassment meted out to the deceased. They even do not state about he having ever told them about it. Same is the case with his classmates. The landlord has also denied to the allegations about applicants having asked him to evict the deceased from the tenanted premises. If this is the state of material collected by the Investigating Officer, we are afraid it is too weak to make the applicants to stand up to the trial.

18. Besides, accepting the allegations in the suicide note, the alleged harassment by the applicants was not the only factor which had caused mental disturbance. There was one more factor. The deceased was harbouring a feeling that his parents were duped by two of the accused persons who are the Chairman and Manager of a Multi State Co-Operative Bank who had allegedly even threatened him when he tried to question them. On the basis of these allegations, even those two persons have been arrayed as accused.

19. Interestingly, there are not even remote allegations about all the

accused having acted in tandem by hatching some conspiracy. In other words, there is no nexus is even alleged between these two causative factors. If this be so, when there were several factors, apart from the fact that the deceased was suffering from depression and was also demonstrating suicidal tendencies, in our considered view, the allegations do not make out necessary ingredients for constituting the offence. There has to be some strong material to draw an inference that the applicants had intentionally subjected the deceased to harassment. In the absence of such material of definite nature as distinguished from imaginary or inferential one it would indeed be hazardous to make the applicants face the trial. The applicants are serving in responsible posts like Principal and Professor in a professional College and would certainly be put to disrepute if they are made to face the trial on the basis of such scant material. This is what has been preciously held in the case of ***Madan Mohan Singh (supra)*** and ***Netai Dutta Vs. State of W.B.; (2005) 2 Supreme Court Cases 659.***

20. The decision in the case of ***Didigam Bikshapathi (supra)*** can be distinguished on facts. Referring to the suicidal note, the contents of which cannot be found in the judgment which according to Their Lordships clearly referred to the background in which the victim had taken the extreme step, referring to the acts of the accused and the roles played by them, the order of the High Court refusing to quash the crime was upheld. In the matter in hand, as is discussed herein above, even accepting the contents of the suicide note at its face value, *prima facie* the allegations do not constitute instigation within the meaning of Section 107 of the Indian Penal Code. The respondents are not entitled to derive any benefit from the decision in the case of ***Didigam Bikshapathi (supra)***.

21. Apart from the above state of affairs, as is mentioned herein above, a coordinate Bench of this Court has quashed the crime to the extent of one of the accused who happens to be the President of the Society which runs the applicants' college. Going by the allegations in the suicide note attributed to

that accused and the present applicants, there is no material difference and therefore we do not find sufficient and cogent reason to take a different view even otherwise.

22. In the circumstances, relying upon the decision in the case of **State of Haryana and Ors V/s. Bhajan Lal and Ors.; AIR 1992 Supreme Court, 604**, the Applications deserve to be allowed and are accordingly allowed.

23. The F.I.R. dated 03.12.2019 in Crime No. I-360/2019, registered with Police Station Pachod, District Aurangabad, for the offences punishable under Section 306, 504, 506 read with Section 34 of the Indian Penal Code qua the applicants is quashed and set aside.

24. The Rule is made absolute.

25. Learned advocate Mr. Savale is appointed to represent the respondent No. 2. His fees is quantified at Rs. 3000/- (Rs. Three Thousand only).

[MANGESH S. PATIL, J.]

[CHIEF JUSTICE]

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