

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

939 CRIMINAL APPLICATION NO. 2372 OF 2020

RAVI NANASAHEB MORE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for the Applicant : Mr. Amol S. Gandhi

APP for Respondent No.1 : Mr. R. D. Sanap

Advocate for Respondent no.2 : Mr. S. D. Jaybhar

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CORAM : V. K. JADHAV AND

SANDIPKUMAR C. MORE, JJ.

DATED : 2nd DECEMBER, 2021.

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ORDER : (PER : SANDIPKUMAR C. MORE, J) :

1. By consent of the parties, heard finally at the stage of admission.

2. This is an application filed by the applicant, who is original accused no.2, for quashing F.I.R. No. 0389 of 2020, dated 13/10/2020, registered with Shivaji Nagar Police Station, Taluka and District Beed for the offence punishable under Sections 306, 323 and 504 of IPC. However, during the pendency of this application, charge sheet is filed and therefore, the applicant also sought quashing proceeding bearing Sessions Case No. 130 of 2021

pending before Sessions Judge, Beed arising out of the aforesaid F.I.R.

3. Respondent no.2 i.e. original complainant lodged report on 13/10/2020 alleging that on that day at about 6.00 a.m. her husband committed suicide by hanging himself on account of harassment from co-accused Santosh Pingle and the present applicant for money, which co-accused Santosh Pingle had given to third person, for which the deceased was a mediator. It is also alleged by respondent no.2 in the F.I.R. that as the said third person died, co-accused Santosh Pingle and the present applicant held her husband responsible for return of amount which Santosh Pingle had given to that third person. It is also alleged that the deceased i.e. husband of respondent no.2 had uploaded his video on Facebook before committing suicide by specifically mentioning his harassment at the hands of co-accused Santosh Pingle .

4. Learned counsel for the applicant submits that this applicant has no role in the aforesaid crime and his name is also not disclosed in the F.I.R. or in the transcription of the audio in the video uploaded on the Facebook by the deceased before committing suicide. Learned counsel for the applicant also submits

that the name of present applicant is included in the present crime only after recording supplementary statement of respondent no.2. According to him, even if those allegations about the present applicant in the supplementary statement, are taken as true, then also no offence under Section 306, 323 and 504 read with 34 of IPC is made out since no specific role with specific details is attributed to the present applicant.

5. Learned counsel for respondent no.2 / informant strongly opposed for quashing of F.I.R. and submits that the informant / respondent no.2 had in fact immediately disclosed the role of present applicant on the next day of lodging of the F.I.R. Moreover, there are also other witnesses, who have stated that the present applicant along with co-accused Santosh Pingle, had in fact abused the deceased on account of demand of money as stated above.

6. Learned APP submits that there are direct allegations against the present applicant as to how he harassed the deceased on account of money along with co-accused Santosh Pingle and thus, prayed for dismissal of the application.

7. On perusal of the F.I.R., it indicates that the name of present

applicant is not mentioned therein but the informant / respondent no.2 has in fact named co-accused Santosh Pingle being the only person, who harassed her husband and abetted his suicide. However, respondent no.2 in her supplementary statement which is recorded on the next day of lodging the F.I.R. has in fact stated that she forgot to mention the name of the present applicant while lodging the F.I.R. on 13/10/2020, being the person who also used to come to her house along with co-accused Santosh Pingle for abusing and beating to her husband on account of demand of money. Admittedly, the other witnesses have also stated so in their statements that the applicant along with co-accused Santosh Pingle, was harassing the deceased on account of money as stated by respondent no.2 / informant. However, these witnesses appear to be stated so because they received the said information about alleged harassment of the deceased from the deceased himself. They do not have any personal information about so called harassment. Therefore, their information regarding alleged harassment is based on the information which they received from the deceased. It is extremely important to note that the Investigating Officer during investigation has also seized the mobile handset of the deceased, wherein deceased had recorded his video before committing suicide.

8. On perusal of seizure panchanama as well as inspection panchanama (पाहणी पंचनामा), in respect of mobile handset of the deceased, it is seen that the deceased was found saying that he was committing suicide only on harassment caused by co-accused Santosh Pingle on account of demand of money given by Santosh Pingle to one third person, in which he was a mediator. It is to be noted here that the deceased nowhere has named the present applicant being the person giving him such harassment. As such, the allegations subsequently levelled against the present applicant that he along with co-accused Santosh Pingle continuously demanded money from the deceased and also abused the deceased, which resulted into commission of suicide by the deceased, appear absurd on the face of it. Even if the witnesses have stated that the applicant also used to come to the house of the deceased along with co-accused Santosh Pingle for demanding money and used to beat the deceased, but source of such allegations appears to be from the deceased who has not uttered a single word against the present applicant in the video prepared by him just before committing suicide. Therefore, even if the allegations made in the complaint and police papers against the present applicant in respect of abetting the suicide of the deceased

are taken as proved, then only no offence against the applicant as levelled by the prosecution, is made out.

9. The Hon'ble Apex Court in the case of ***State of Haryana and others vs. Ch. Bhajan Lal and others, reported in AIR 1992 SC 604***, has referred some guidelines for quashing of F.I.R. After going through those guidelines, it reveals that the inherent powers under Section 482 of Cr.P.C. or powers under Article 226 of the Constitution of India, can be exercised where the allegations made in the F.I.R. or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. Further it is also observed that though the powers under Section 482 of Cr.P.C. are to be exercised very sparingly but it must be seen that no prosecution should result in abuse of the process of law.

10. In the present matter, even if we consider that the allegations made in the complaint are proved but thereafter also no offence under Sections 306, 323 & 504 read with 34 of IPC is made out. There are allegations mainly against co-accused Santosh Pingle and the deceased in his video prepared by himself before committing suicide, has named only co-accused Santosh Pingle. Therefore, we

find that the allegations against the present applicant made afterwards, are totally absurd. As such, in view of the ratio laid down by the Hon'ble Apex Court in the case of **Ch. Bhajan Lal and others** (supra) and in the light of our discussion made above, we find that the present application is fit for exercising powers under Section 482 of Cr.P.C. Hence, we pass the following order.

O R D E R

- I) The criminal application is hereby allowed in terms of prayer clause " A & A-1 " to the extent of present applicant only.
- II) The criminal application accordingly stands disposed of.
- III) We quantify the fees and expenses of learned counsel for respondent no.2, who is appointed advocate, to Rs.2,000/- (Rs. Two thousand) to be paid by the High Court Legal Services Sub- Committee, Aurangabad Bench.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-