

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

CRIMINAL APPLICATION NO. 3568 OF 2019

1. Santosh s/o. Dashrath Ghule,
Age 42 years, Occu. Agril. & Business,
R/o. Gavandara, Tq. Dharur,
Dist. Beed.
2. Gajanan s/o. Pandurang Munde,
Age 25 years, Occu. Agriculture,
R/o. Gavandara, Tq. Dharur,
Dist. Beed.
3. Pralhad s/o. Rambhau @ Rama Munde,
Age 55 years, Occu. Agril.,
R/o. Gavandara, Tq. Dharur,
Dist. Beed.
4. Satish s/o. Jagannath Ghule,
Age 33 years, Occu. Agril.,
R/o. Gavandara, Tq. Dharur,
Dist. Beed.

....Applicants.

Versus

1. The State of Maharashtra
Through Police Station Dharur,
Dist. Beed.
2. Vikas Jalindhar Aghav,
Age 25 years, Occu. Agriculture,
R/o. Gavandara, Tq. Dharur,
Dist. Beed.

....Respondents.

Mr. S.J. Salunke, Advocate for applicants.

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

Mr. H.V. Tungar, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 18/01/2021.

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

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The present proceeding is filed for relief of quashing of chargesheet filed in C.R. No. 234/2019 registered with Dharur Police Station, District Beed for the offence punishable under section 306 r/w. 34 of Indian Penal Code. The crime is registered on the basis of report given by respondent No. 2 Vikas. Deceased Jalindar is his father. Applicants hail from village Gavandara, Tahsil Dharur and deceased was also resident of the same village and he was living with respondent No. 2.

3) In the F.I.R., dated 16.9.2019 one incident dated 15.9.2019 is mentioned by informant Vikas. It is contended that at about 8.00 p.m. on that day when he, his father and his mother were sitting in front of the house, the Scorpio jeep of applicant Santosh gave dash to the platform, Katta of his house and due to that, deceased said that Santosh was not able to drive the vehicle properly and he had given dash to the platform of the house of the deceased. It is contended that the applicants then became angry and they picked up quarrel with the deceased by saying that the land was Gairan and they will not allow him to live there. It is contended in F.I.R. that during quarrel applicant Santosh gave slap to the

deceased and gave threat of life. It is contended that all the applicants gave abuses in filthy language to the deceased and the wife of deceased. It is contended that neighbours like Rajabhau, Yuvraj and Laxman came there and they separated two sides. It is contended that after taking dinner, he and his mother were slipping inside of the house and deceased was sleeping in the courtyard of the house. It is contended that on 16.9.2019 at about 5.30 a.m. his uncle Baliram came to him and he informed that Jalindir had committed suicide by hanging himself at a tree situated near Upli road. It is contended that he went there and saw the dead body. It is contended that his uncle Udhav, who gave A.D. report, did not know about the incident which had take place on 15.9.2019 and so, this incident was not mentioned in A.D. report which was given by Udhav to Police.

4) It is contention of the informant that due to the incident dated 15.9.2019 his father was disturbed, he felt insulted and due to that he committed suicide in night between 15.9.2019 and 16.9.2019.

5) This Court has gone through the P.M. report and it shows that only the ligature mark which caused death is shown and death took place due to hanging. No other injury was found on the dead body showing any scuffle. As the chargesheet is filed, papers of

investigation were available which include the panchanama of the spot of the incident dated 18th and photographs of that place were also taken by police. The photographs and panchanama show that some heap of stones were kept by the side of the construction on the road, but that cannot be called as a platform and they were used stones. No sign of incident was noticed on the spot where allegedly incident took place on 15.9.2019.

6) In police papers, there are statements of the witnesses mentioned in the F.I.R. The statement of Rajabhau shows that he had witnessed the incident of quarrel and he had separated the quarrel. His statement, however, does not show that assault was made on deceased. There are statements of other witnesses in which allegations are made that the three applicants had given beating to deceased by kick blows and fist blows. The learned APP drew the attention of this Court to one statement of daughter of deceased. He submitted that deceased had made disclosure to Ranjana that he was felling insulted due to the incident. Her presence is not shown in F.I.R. by the informant and it is her contention that she had gone to the house of father after learning about the incident. She is married and she was living at different place.

7) Admittedly, in A.D. report given by Udhav, the incident dated 15.9.2019 was not mentioned. If at all something was said to

Ranjana by the deceased, that would have been mentioned in the F.I.R., but that is also not there. In A.D. report, nobody was blamed for the incident by Udhav and it does not look probable that Udhav did not know anything about the incident if the incident had happened. It can be said that it was simply quarrel between the persons of the side of the deceased and the applicants. Even if that contention is accepted as it is, it cannot be said that there was intentional instigation from the side of the applicants as defined under section 107 of Indian Penal Code. The deceased did not leave behind any suicide note. There can be many reasons for suicide and it can be said that Udhav could not guess about the reason of suicide. Due to all these circumstances, this Court holds that it will be abuse of process of law, if the applicants are directed to face the trial for aforesaid offences. Nothing can be achieved by such trial. In the result, following order :-

ORDER

- (I) Application is allowed.
- (II) Relief is granted in terms of prayer clause 'C-2'.
Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

ssc/