

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

CRIMINAL APPLICATION (ABA) NO. 179 OF 2020

(Prashant Sheshrao Ubale ..vs.. State of Maharashtra, through PSO, Deulgaonraja)

WITH

CRIMINAL APPLICATION (ABA) NO. 181 OF 2020

(Manisha Yeshwant Shinde ..vs.. State of Maharashtra, through PSO, Deulgaonraja)

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

Court's or Judge's orders

Mr. P.B. Patil, Counsel for the applicant in ABA 179/2020,
Mr. A.A. Dhawas, Counsel for the applicant in ABA 181/2020,
Mr. N.R. Rode, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 05-01-2021

These applications arise from the same Crime 55/2020 registered with Deulgaonraja Police Station, District Buldhana for offence punishable under Section 306 read with Section 34 of the Indian Penal Code and are, therefore, heard together and decided by this common order.

2. Both the applicants are serving with the police department.

3. The crime is registered on the basis of report dated 14-2-2020 lodged by Mrs. Anita Vishnu Gadekar. The report was lodged initially with Jafarabad Police Station and the investigation was transferred to Deulgaonraja Police Station.

4. The gist of the allegation is that the applicants

abetted the suicide of the husband of the informant Mr. Vishnu Gadekar, who was also serving with the police department, as Police Constable.

5. According to the report, Mr. Vishnu and the informant married in the year 2012. Since 6-7 years applicant Manisha and Vishnu were in an illicit relationship. Manisha was insisting that Vishnu married her and was also demanding money and gold ornaments. It is alleged, *inter alia*, that Vishnu gave Rs.4,00,000/- to Manisha for construction of house. It is further alleged that Vishnu left the house in the morning of 13-2-2020, ostensibly to collect the salary. The informant tried to call Vishnu, the call went unanswered. Manisha called informant between 2-00 to 2.30 p.m., which call the informant did not receive. Manisha then sent the informant a SMS that the informant should ask her husband to pay Manisha Rs.4,00,000/- else Manisha would lodge complaint with the Police Headquarters. It is then alleged that at 9.30 p.m. the informant received a call from Vishnu, who told her that he is being blackmailed by Manisha and Prashant Ubale. It is alleged that Vishnu further disclosed that he had purchased ornaments for Manisha and that she is demanding an additional ornament (pohahar) i.e. a necklace. It is alleged that Vishnu told the informant that Prashant Ubale has threatened to falsely implicate Vishnu in an offence. It is further alleged that Vishnu

disclosed that Prashant Ubale forced him to execute a document on stamp paper in which Vishnu promised to pay Rs.2,00,000/-. The report further alleges that Vishnu was threatened by Manisha and Prashant Ubale that Vishnu's daughter would be harmed. It is alleged that Vishnu was driven to commit suicide and that he consumed poison. Vishnu died during the course of treatment at the Jalna Hospital.

6. I have heard the learned Counsel Mr. A.A. Dhawas for Manisha and the learned Counsel Mr. P.B. Patil for Prashant Ubale. I have perused the material in the case diary, and having done so, I am satisfied that the applicants have made out a case for exercise of discretion in their favour.

7. Mr. A.A. Dhawas has invited my attention to the report dated 10-7-2014 lodged against the deceased Vishnu, in which the complainant alleged rape. Mr. A.A. Dhawas further invited my attention to documents indicating that after the registration of the offence, Vishnu attempted suicide by consuming poison and that the medical papers indicate that Vishnu had a suicidal tendency.

8. The material in the charge-sheet, including the intimate photographs, and the version of the informant herself, clearly indicates that Manisha and Vishnu were

in relationship. Mr. A.A. Dhawas has invited my attention to certain bank statements suggesting that substantial cash was withdrawn from the account of Manisha's father, which was paid to Vishnu. The submission is, that there is nothing wrong in Manisha demanding the amount of Rs.4,00,000/- and the fact that she stated that she would be compelled to approach the Police Headquarters, rules out blackmail.

9. In my *prima facie* view, on a holistic consideration of the material in the charge-sheet, it is difficult to hold that the applicants did any overt act with the intention of compelling Vishnu to commit suicide, or with the knowledge that a reasonable person would be left with no option but to take the extreme step. This of course is a *prima facie* observation made for the purpose of considering the entitlement to pre-arrest protection and ultimately it would be for the trial Court, on considering of evidence adduced, to come to an appropriate conclusion.

10. The applicants have attended the police station in compliance with the condition imposed while granting pre-arrest protection. The mobile sets are deposited. According to the prosecution, the data was deleted and the sets are sent for forensic analysis and if possible, to retrieve the data deleted. Be that as it may, custodial interrogation, in my considered view, is not necessary

since nothing further is to be recovered.

11. I am satisfied that the investigation shall not be hampered if the pre-arrest protection granted vide order dated 13-3-2020 is made absolute. The applicants are serving with the police department and they do not pose a flight risk.

12. The applications are allowed and the interim protection granted vide order dated 13-3-2020 is made absolute with the only modification that till the filing of the charge-sheet, the applicants shall attend the concerned police station, as and when required by the Investigating Officer.

JUDGE

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