

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

CRIMINAL APPLICATION NO. 504 OF 2022

1. Mahesh S/o Gorakshanath Kadam
Age : 39 years, Occup: Service,
R/o: Ghodegaon, Taluka Newasa,
District Ahmednagar.
2. Vinayak S/o Damodhar Deshmukh
Age: 51 years, Occup: Service,
R/o: Sonai, Taluka Newasa,
District Ahmednagar.
3. Rahul S/o Janardhan Rajale
Age: 29 years, Occup: Service,
R/o: Lohgaon, Taluka Newasa,
District Ahmednagar.
4. Venkatesh S/o Namdeo Belhekar
Age: 50 years, Occup: Service,
R/o: Belhekarwadi Sonai, Taluka Newasa,
District Ahmednagar.
5. Jagannath S/o Kalyanrao Auti
Age: 56 years, Occup: Service,
R/o: Watapur, Taluka Newasa,
District Ahmednagar.
6. Raosaheb S/o Bhimraj Shelke
Age: 57 years, Occup: Service,
R/o: Kautha, Taluka Newasa,
District Ahmednagar.
7. Ritesh S/o Baban Temak
Age: 36 years, Occup: Service,
R/o. Karajgaon, Taluka Newasa,
District Ahmednagar.

... Applicants.

Versus

1. The State of Maharashtra
Through : M.I.D.C. Police Station,
Ahmednagar, Taluka and District : Ahmednagar.
2. Pratiksha Balasaheb Kale,
Age: 23 years, Occup. Education,
R/o. Telkudgaon, Taluka Newasa,
Ahmednagar.

... Respondents.

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Mr. V. D. Sapkal, Sernior Advocate i/by Mr. S. R. Sapkal, Advocate for Applicants.

Mr. D. R. Kale, Public Prosecutor for Respondent No.1-State.

Mr. Adinath B. Jagtap, Advocate for Respondent No.2-Informant.

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**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

RESERVED ON : 16 NOVEMBER 2022

PRONOUNCED ON : 02 DECEMBER 2022

JUDGMENT (ABHAY S. WAGHWASE, J.) :

1. Applicants herein, who are accused in crime no. 711 of 2021 registered with M.I.D.C. Police Station, Ahmednagar for the offence punishable under Section 306 r/w 34 of IPC, have invoked the jurisdiction of this Court under Section 482 of Cr.PC. for the following relief :

A] Grant rule and allow Application.

B] Quash and Set aside FIR bearing C.R. No. 0711/2021, dated 30.10.2021 for the offence punishable under Section 306 of IPC registered with M.I.D.C. Police Station, Ahmednagar, Tq. & Dist. Ahmednagar.

- B-1] Quash and set aside the Charge-Sheet filed before the learned Judicial Magistrate, First Class at Ahmednagar for the offence punishable U/Sec. 306 and 34 of Indian Penal Code. (Exhibit 'G') registered against the applicants in pursuance of F.I.R. bearing Crime No. 0711 of 2021 dated 30.10.2021 with the MIDC Police Station, Ahmednagar.
- C] Pending hearing and final disposal of this Criminal Application Stay the further investigation arising out of crime bearing C.R. No. 0711 of 2021, dated 30.10.2021 for the offence punishable under Section 306 of IPC registered with M.I.D.C. Police Station, Ahmednagar, Tq. & Dist. Ahmednagar.
- C-1] Pending hearing and final disposal of this Criminal Application grant stay to the further proceedings in pursuance to the Charge-sheet filed before the learned Judicial Magistrate, First Class at Ahmednagar for the offence punishable U/Sec. 306 and 34 of Indian Penal Code. (Exhibit 'G') registered against the applicants in pursuance of F.I.R. bearing Crime No.0711 of 2021 dated 30.10.2021 with the MIDC Police Station, Ahmednagar.
- D] Ad-interim relief in terms of prayer Clause "C" may kindly be granted.

Facts

2. Deceased Pratik, who lived with his parents, brother and sister at Telkudgaon, Taluka Newasa, was working as a clerk in Mula Education Society, Sonai. Applicants-accused were also serving there.

On 29.10.2021, Pratik hanged himself to a tree. On 30.10.2021, his sister Pratiksha lodged a complaint at M.I.D.C. Police Station, Ahmednagar alleging that, applicants/accused, who were seniors of her deceased brother

Pratik, wanted him to discontinue the job. They prevented him from talking to any one for the last six months. According to her, accused persons also made his eating mess stopped. Deceased duly informed about it to her as well as brother Akshay. Further, according to her, all the employees of Mula Education Society were given advance of Rs.5,000/- but accused Vinayak Deshmukh granted merely Rs.1000/- by way of advance to Pratik. On 28.10.2021, said accused Vinayak Deshmukh also forcibly took resignation of Pratik, however he did not approve it.

On 29.10.2021, at around 08.46 p.m., messages were received on the mobile of her other brother Akshay. It were in the form of video clip, audio clip and messages sent on Akshay's WhatsApp wherein deceased informed that because of harassment at the hands of accused-applicants, he was committing suicide.

Complainant claims to have heard about it from her family members and therefore, information was duly passed to the police and search of deceased Pratik was undertaken. He was found in hanging condition to a tree in a field. Hence the complaint.

M.I.D.C. police registered crime baring no. 0711/2021. During investigation, police seized the video clip and stored it in a pendrive vide

panchanama on 31.10.2021. Statements of relevant witnesses were recorded. After investigation, charge sheet was filed. It is the said crime, charge sheet and the case which is now sought to be quashed by applicants herein.

SUBMISSIONS

3. Learned counsel for the applicants would submit that present complaint is a sheer abuse of law. He pointed out that false and baseless allegation are levelled even when applicants had no direct concern with deceased Pratik. He pointed out that even if the allegations in the FIR are taken at their face value and accepted, even then there is no *prima facie* case for offence punishable under Section 306 of IPC. He emphasized that for attracting said provision there has to be *mens rea* and moreover, continuous harassment with sole intention that deceased should commit suicide. He pointed out that there is no material whatsoever in this direction either in the FIR or in the charge sheet. Thus, according to him, instant complaint amounts to gross abuse of process of law. He further added that there is no material on record to indicate that accused applicants intended that deceased should commit suicide nor they created circumstances which were of such a nature that deceased was left with no other alternative but to end up his life.

It is his further pointed out that deceased was working at Late Yashwantrao Chavan Medical Rural Development Foundation Dental College,

Ahmednagar, whereas accused nos. 1 to 4 worked in Mula Education Society, Sonai and accused nos. 5 to 7 worked at Mula Co-operative Sugar Factory and as such applicant and deceased worked at distinct places and so applicants herein had no concern whatsoever with the alleged suicide of deceased. He pointed out that on the contrary, investigation papers itself show that deceased was addicted to liquor and he might have committed suicide for the best reasons known to him, but according to him, definitely applicants have no concern with the same.

Taking us through the FIR he would strenuously submit that allegations levelled are without any foundation, vague and no distinct role or even conspiracy is alleged against the applicants. He would question as to where is the material in the entire record to show that accused had *mens rea* and/or specific intentions that deceased should commit suicide.

Consequently, relying on rulings i.e. ***G. Balareddy S/o. Innareddy v. The State of Maharashtra and another*** [Criminal Writ Petition No. 999 of 2019 decided by this Court (Coram : T. V. Nalawade and R. G. Avachat, JJ.) on 04.09.2019], ***Hafizur Rahman Sheikh v. The State of Maharashtra and another*** [Criminal Application No. 316 of 2021 decided by this Court (Coram : V. K. Jadhav and Shrikant D. Kulkarni, JJ.) on 30.08.2021], ***M. Mohan v. State Represented by the Deputy Superintendent of Police, Velmurugan and another*** ; AIR 2011 C 1238, ***Binod s/o. Ratan Sarkar & others v. State of***

Maharashtra and another ; 2013 (3) Mh.L.J. (Cri.) 418, *Rushikesh Hanumant Sutar v. State of Maharashtra and others* ; 2019 (3) Mh.L.J. (Cri.) 15 and *Akshay s/o. Maroti More and others v. The State of Maharashtra and another* [Criminal Application No. 1095 of 2020 decided by this Court (Coram : T. V. Nalawade and M. G. Sewlikar, JJ.) on 14.08.2020, he would conclude by submitting that present complaint being sheer abuse of process of law, in the interest of justice, applicants should not be allowed to face prosecution and hence prayed for quashment.

4. On behalf of the State, learned APP strongly opposed the above application and strenuously submitted by advancing a case that accused and deceased were known to each other. Complainant, who is sister of deceased, has lodged complaint immediately. She and her other brother were made aware by deceased himself about the harassment meted out to him by present applicants. That in the suicide note, names of the present applicants are clearly reflected and therefore, they are solely responsible for his death. Investigation has been completed, charge sheet has also been filed and there is sufficient material regarding complicity of accused. For said reasons, it is his submission that prosecution deserves opportunity to proceed as per law against the accused for the offence committed by them.

5. While resisting the application and prayers, learned counsel for respondent no.2 also sought to dismiss the application contending that applicants herein are solely responsible for the suicide of deceased Pratik. That since six months prior to death, all applicants together indulged in subjecting deceased to mental harassment on one or other account and they made his life miserable and therefore, deceased took extreme step of ending his life. They, being solely responsible for the suicide, are liable to face legal action.

Analysis

6. Before touching the proceedings on merits it would be desirable to briefly discuss and take stock of the settled legal position as well scope and object of Section 482 of Cr.P.C. which is pressed into service in the instant proceedings.

7. There are umpteen judgments on the scope, object and exercise of provision of Section **482 of Cr.P.C.** It would be profitable to refer to few landmark judgments regarding the law on this point.

In *State of Orissa v. Saroj Kumar Sahoo* ; (2005) 13 SCC 540, the Hon'ble Apex Court, in para 8, made the following observations :

“8. ... While exercising the powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in

the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto.”

In ***State of M.P. v. Surendra Kori*** ; (2012) 10 SCC 155, in para 14, the Hon’ble Apex Court observed thus :

“14. The High Court in exercise of its powers under Section 482 CrPC does not function as a court of appeal or revision. This Court has, in several judgments, held that the inherent jurisdiction under Section 482 CrPC, though wide, has to be used sparingly, carefully and with caution. The High Court, under Section 482 CrPC, 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 wide magnitude and cannot be seen in their true perspective without sufficient material.”

In ***State of Haryana and Ors. Vs. Ch. Bhajan Lal*** ; 1992 Supp (1) SCC 335 : 1992 SCC (Cri.) 426, this Court laid down the principles for the exercise

of the jurisdiction by the High Court in exercise of its powers under Section 482 of the Cr.P.C. to quash an FIR. Justice Ratnavel Pandian, J. laid down the limits on the exercise of the power under Section 482 Cr.P.C. for quashing the FIR and observed : (SCC pp. 378-79, para 102)

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the CrPC which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) CrPC except under an order of a Magistrate within the purview of Section 155(2) CrPC.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and

make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) CrPC.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

Based on above **precedent**, the Hon’ble Apex Court **very recently** in the case of ***Mahendra K.C. v. State of Karnataka and another*** ; (2022) 2 SCC 129 observed that “while exercising powers under Section 482 Cr.P.C., for quashing proceedings, following tests are required to be applied, ***firstly***, whether the allegations made in the complaint, *prima facie* constitute an offence; and ***secondly***, whether the allegations are so improbable that a prudent man would not arrive at the conclusion that there is sufficient ground to proceed with the complaint.

This is the settled legal position on scope and object of Cr.PC. that can be culled out from various rulings discussed above.

8. Here, crime is registered for offence under Section **306 of IPC**. Consequently, it would also be desirable to discuss the legal position as regards to the above penal provision.

9. Section 306 of IPC deals with punishment for abetment of suicide. As to what amounts to abetment is also fairly settled. Observations to that effect made by the Hon'ble Apex Court in ***Mahendra K.C.*** (supra) in para 23 to 25 read as follows :

“23. Section 306 IPC provides for punishment of the abetment of suicide:

“306. Abetment of suicide. - If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.” Section 107 IPC defines the expression “abetment”:

Section 107 IPC defines the expression “abetment”:

*“107. Abetment of a thing- A person abets the doing of a thing, who -
First. - Instigates any person to do that thing; or
Secondly. - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an*

act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1. - A person who by willful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing."

24. *The essence of abetment lies in instigating a person to do a thing or the intentional doing of that thing by an act or illegal omission. In Ramesh Kumar v. State of Chhattisgarh ; (2001) 9 SCC 618 : 2002 SCC (Cri) 1088, a three-Judge Bench of this Court, speaking through R.C. Lahoti, J. (as the learned Chief Justice then was), observed: (SCC p. 629, para 20)*

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

25. *A two-Judge Bench of this Court in Chitresh Kumar Chopra v. State (NCT of Delhi); (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367, speaking through D.K. Jain, J., observed: (SCC pp. 611-12, paras 19-20)*

"19. As observed in Ramesh Kumar [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088], where the accused by his acts or by

a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an “instigation” may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

20. In the background of this legal position, we may advert to the case at hand. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. Each individual's suicidality pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, which may either be an attempt for self-protection or an escapism from intolerable self.”

In the case of ***State of Kerala and Ors. Vs. Unnikrishnan Nair and Ors.;***

(2015) 9 SCC 639, the Hon’ble Apex Court has observed as under :

“10. The aforesaid provision was interpreted in *Kishori Lal Vs. State of M.P.*; *(2007) 10 SCC 797*, by a two-Judge Bench and the discussion therein is to the following effect :

“6. Section 107 IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in IPC. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. “Abetted” in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.”

11. In *Amalendu Pal Vs. State of W.B.; (2010) 1 SCC 707*, dealing with expression of abetment the Court observed : (SCC pp.712-713 para 14)

“14. The expression “abetment” has been defined under Section 107 IPC which we have already extracted above. A person is said to abet the commission of suicide when a person instigates any person to do that thing as stated in clause Firstly or to do anything as stated in clauses Secondly or Thirdly of Section 107 IPC. Section 109 IPC provides that if the act abetted is committed pursuant to and in consequence of abetment then the offender is to be punished with the punishment provided for the original offence. Learned counsel for the respondent State, however, clearly stated before us that it would be a case where clause Thirdly of Section 107 IPC only would be attracted. According to him, a case of abetment of suicide is made out as provided for under Section 107 IPC.”

* The other landmark rulings on above point are *Praviee Pradhan v. State of Uttaranchal* ; (2012) 9 SCC 734, *Vajjnath Kondiba Khandke v. State of*

Maharashtra ; (2018) 7 SCC 781, *Ude Singh v. State of Haryana* ; (2019) 17 SCC 301, *Gurcharan Singh v. State of Punjab* ; (2020) 10 SCC 200 and *Rajesh v. State of Haryana* ; 2020 15 SCC 359.

SUMMATION

10. Keeping in mind the above legal requirements, we proceed to deal with and examine the record placed before us. It is emerging that the sheet anchors of the prosecution's case are two fold. **Firstly**, FIR/complaint and **secondly**, alleged suicide note (message on mobile video clip). The seminal question that arises for our consideration is whether case of abetment of suicide has really been made out against the applicants herein or not.

11. On carefully examining the allegations raised in the FIR by Pratiksha (sister of deceased), the sum and substance of the Marathi version in translated form is reproduced as under:

“My father works in Mula Co-operative Sugar Factory in Agricultural Department and my elder brother Pratik (deceased) worked as a Clerk in Mula Education Society at Sonai. Likewise, my younger brother Akshay is an agriculturist. Persons namely, (1) Mahesh Gorakshnath Kadam, (2) Vinayak Damodhar Deshmukh, (3) Rahul Janardhan Rajale, (4) Vyankatesh Namdeo Belhekar and (5) Jagannath Kalyanrao Auti worked in Mula Co-

operative Sugar Factory; (6) Raosaheb Bhimraj Shelke and (7) Ritesh Baban Temak were also in service. All above seven persons were working as seniors of my brother Pratik. My brother Pratik worked sincerely and was close to Gadakh family. Above seven persons did not like it. Therefore, since last six months on one or other count they told Pratik not to do job, threatened him not to stay in Maharashtra and they prevented him from talking to any one. They also stopped his eating mess by approaching the owner. All this was informed to her as well as her brother Akshay. Staff of Mula Education Society, in need of times, were given amount of Rs.4,000/- to Rs.5,000/- by way of advance. Similarly, Pratik also sought advance of Rs.5,000/-, but Vinayak Deshmukh Sir approved only Rs.1,000/- . On 28.10.2021, Vinakay Deshmukh Sir forcibly took resignation of Pratik but he did not approve it. All above was duly informed by Pratik to her and her brother Akshay. All seven persons jointly subjected Pratik to mental cruelty and harassed him. On 29.10.2021, at around 8.46 p.m., from his mobile baring no. 8888080814 he forwarded Whatsapp clip on the mobile of her brother Akshay informing that being fed up with trouble at the hands of seven persons, he is committing suicide.”

12. On visiting the statements of witnesses recorded under Section 161 of Cr.P.C., i.e. more particularly, parents, brother, maternal uncle, cousin uncle of deceased Pratik, it is revealed that they all are levelling allegations that accused persons named in the complaint were seniors of Pratik. He being close to Gadakh family, these persons disliked it and since last six months, on one or

other count, they told Pratik not to do job, not to stay in Maharashtra, not to speak to any one. They also stopped his eating mess. Staff of Mula Education Society were given Rs.5000/- by way of advance in case of need but only Rs.1,000/- were given to Pratik. On 28.10.2021, applicant no.2 Vinayak Deshmukh forcibly took Pratik's resignation. All this was duly informed by Pratik to his sister and brother. All seven persons harassed Pratik and subjected him to mental harassment and therefore, on 29.10.2021 Pratik informed his brother Akshay on WhatsApp message regarding he committing suicide because of the harassment at the hands of above persons.

13. During investigation, M.I.D.C. police seems to have seized the contents of WhatsApp message/clip purported to be forwarded by deceased from his mobile to mobile of his brother. The said data was downloaded in a pendrive and Marathi translated version is made part of charge sheet. We have carefully examined the same. It is a lengthy suicide note running into several pages.

14. In the initial part of the text, the author has stated about his birth, about there to be many reasons, acknowledging his own fault and again being doubtful about it. It is also stated that there was no grudge or affection for anyone and thereafter, names of friends, relatives and acquaintances are reflected. The author expressed about his own potential and capacity and wrote about his life taking turn on 5th saying that one phone call ruined

everything. There is text about Vijaybhau and Prashantbhau. There is blame against Prashant saying that he and Gadakh exposed him by telling to Deshmukh Sir and about Belhekar to be after him and said Belhekar sending boys to kill him. It is stated that it is to be borne in mind that not only Gadakh but Deshmukh is also responsible for the suicide. Disappointment is expressed against Belhekar, Deshmukh, Rahul Rajale and another party worker. There is text regarding Deshmukh Sir misreporting and defaming him and to be responsible for separating him from his family and that Deshmukh to be unfit and undeserving and about everyone taking disadvantage of Bhau and ruining him. There is text that if names are disclosed, all of them would go in jail. There is a request to help his family members saying that this not the age to die but these people created such a situation that he had no option but to die. There is also an advice to his younger brother “bhaiya” to contest elections of legislative assembly and to get elected as MLA and further asking bhiya to make his dreams come true.

15. The above text is followed by some poetry, a reference about his own family members and friends acknowledging them for whatever they did. There is reference about social medical services rendered by him. Finally, it is stated that “VNB is hired to destroy, God Knows, fire him first. He is son of bastard”. This is followed by thanks giving to friends. There is request to creditors not to visit his house or else his father scolding them again and all accounts, bills to

be stored in the computer and he has disclosed his password and all bills to be kept in a bag at Siddhi Bakery. Finally, it is stated that he did not want to leave the world and his capacity to achieve his goals. It is stated about it so happening like wild dogs coming in the pack, finding a wounded tiger alone and hunting him mercilessly. He has disclosed the venue of spot where suicide would be committed.

The above is the material gathered, and relied too, by the investigating agency for prosecuting present applicants.

16. On taking audit of above material, to sum up, it is seen that in the FIR there is allegation about accused applicants to be the seniors of deceased Pratik. There are allegations that only because deceased was close to Gadakh family, seven persons named in the complaint disliked him. It is alleged that deceased was accused wanted deceased to stop working and suggested him to leave Maharashtra. He was prevented from talking to anyone and even his eating mess was got stopped. Then there are allegations about all being paid Rs.4,000/- to Rs.5,000/- as advance but deceased being paid only Rs.1000/- and on 28.10.2021, his resignation was obtained. Because of mental harassment at the hands of seven persons named in the complaint, deceased Pratik committed suicide.

In our considered opinion, above discussed material is firstly nonspecific as regards to what role was played by which of the applicants accused herein. Allegations are devoid of specific instances and dates of its occurrence. The reasons and grudges allegedly raised in the FIR are patently petty in nature. As to when the above instances occurred has not been stated so as to assume that it was in proximity with the date and time of suicide. True it is that there is specific allegation against applicant no.2 that he gave deceased lesser amount of advance in comparison to others, in our view such instance does not amount to harassment. As regards to the aspect of forcibly seeking resignation, there is no material in the entire charge sheet. Even otherwise, said episode of seeking resignation is of 28.10.2021 and alleged hanging is of night of 29.10.2021. This is the solitary instance quoted in the FIR whereas, FIR is silent as to when the episodes of preventing continuation of job, ex-communication with others and stopping the eating mess occurred.

17. The alleged suicide note seems to be verbose and prolix. In the opening part of the alleged suicide note, one comes across text that there is no grudge or allegation against anyone. There also reference about some occurrence taking place on 5th which allegedly changed everything in his life. There is also reference of a phone call ruining everything. However, no details whatsoever about alleged incident of 5th or the telephonic conversation are appearing in the note. No doubt some Vijubhau, Prashantbhau, Deshmukh Sir and Belhekar

are named, but what role they played is not clarified in the note. At one point, there is reference to one Gadakh about keeping in mind that not only he, but Deshmukh CEO is also responsible for his suicide. But for what reason and how they are responsible and what they actually did has not come in the note. Though there is text about it to be not a age to die, it is further stated that these people created a situation that there was no option but to die. Which people and what they did and what situation was created and exactly when, there is no material in this direction.

18. We have dealt and discussed as to what amounts to abetment and the settled law on this point in the aforesaid paragraphs. Essence of *mens rea* and what amounts to instigation has squarely and fairly been discussed in the aforesaid rulings. The material which has come on record in consequence to investigation shows that what were the willful acts or omissions or intentional aiding or instigating deceased is conspicuously missing. No positive role is attributed to any of the applicants except applicant no.2. Even allegation against him is regarding seeking forceful resignation. But as discussed above, there is no supporting material in the entire charge sheet in that regard. Whether there was any *mens rea* entertained by such applicants is not getting clear. For want of specific details about alleged occurrence, it is difficult to hold that there was continuous harassment with sole intention to abet or instigate deceased to end up his life. Nor it is getting clear from the available

record and text that accused applicants had created such circumstances so that deceased would not be left with any other alternative but to end up his life. Thus, the very essentials for abetment of suicide are conspicuously missing from the available material. The conditions and circumstances discussed in the above referred rulings in the case of *Chitresh Kumar Chopra v. State (NCT of Delhi)*; (2009) 16 SCC 605 and *State of Kerala and Others Vs. Unnikrishnan Nair and Others* (supra) are non-existent in the case in hand.

19. Though there is use of words 'mental harassment', taking into consideration the nature of allegations raised in the FIR, it cannot be said that the so called harassment or cruelty to which deceased was allegedly subjected was of such magnitude that it would, in all probabilities or likelihood, drive deceased to commit suicide. As like FIR, statements of near and dear ones which are recorded by police are also monotonous in nature and mirror images of each other. They are general, either vague or non-specific in nature as regards to the role played by each of the applicants herein in abetting suicide. Contention of applicants that deceased and accused were working at distinct places and as such had no concern, is not traversed by prosecution. It is worth noting that there is no material as to what preceded during the entire day of 28.10.2021, night of 28.10.2021 and entire day of 29.10.2021. There is no mention about accused to be coming in contact with deceased since evening of 28.10.2021 till night of 29.10.2021. Consequently, what happened

immediately prior to the suicide or in proximity to it has not come on record. Except referring names of some of the applicants at some places, the suicide note is silent about any willful act or omission or intentionally aiding of or instigating the deceased to commit suicide. resultantly, when the very essence of abetment of suicide being missing, coupled with absence of *mens rea* attributable to accused, we are of the considered opinion that registration of crime against applicants being without or in absence of factual foundation, continuation of the proceeding would definitely amount to abuse of process of law. Finding it a fit case to intervene by exercise of power under Section 482 of Cr.PC., we proceed to pass following order:

ORDER

- I. The application is allowed in terms of prayer clauses [B] and [B-1].
- II. The application is accordingly disposed off.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)