

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 6464 OF 2021

1. Mr.Santosh Ramavtar Agarwal &
2. Mr.Rajesh Jagdishprasad Agarwal. ...Petitioners
vs.
State of Maharashtra & Ors. ...Respondents

Mr.Vijay Upadhyay i/b. Sitesh S. Sharma for Petitioners.
Ms.S.D. Shinde, APP for State.
Mr.Vinod Patil for Respondent Nos.3 and 4.

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATED : 17 JANUARY 2022

P.C. :

By the present petition, filed under Article 226 of the Constitution of India and Section 482 of Cr.P.C., the Petitioners are praying for quashing of FIR dated 25 August 2021 registered at Nigadi Police Station, District Pimpri-Chinchwad for the offences punishable under Sections 420, 306, 506 read with 34 of IPC.

2. The first informant is the brother-in-law of deceased, Pravin Pandit Patil. It is alleged that the deceased had done RCC work of Surabhi Iconica building, Chakan of the Petitioners prior to one and one half year. There were dues of Rs.70,01,616/- and 88,00,000/- of four flats work done by him. The deceased visited them time to time, but they denied to pay the same. The deceased had also done the RCC work of builder Rahul Bhandari. The co-accused was to pay Rs.16 lacs. Time to time, he

demanded the said amount from Lalit Jain, but was threatened by the Petitioners not to demand money, otherwise he would be killed. The deceased had also done the RCC work of builder Ajit Gaikwad, Abhijit Gaikwad and Sachine Killedar at the site of AIBM Imperia Tower and Grecia at Kharadi and there were dues of Rs.20 lacs of the said work. The deceased had demanded the said amount repeatedly, but they avoided to pay. On 24/08/2021, the first informant came to know that the deceased consumed the poison. He immediately gave call to him and asked why he had consumed the poison. He replied that in the morning, he visited the Petitioners' office for payment of the work done by him. At that time, he told them that if they did not pay the money, he would have no option but to commit suicide. He had shown bottle of pesticide of Alldown 505. At that time, Petitioner No.1 told him to drink it and that they would be rescued. Petitioner No.1 did not stop him from drinking the pesticide, on the contrary, he was laughing. After drinking the pesticide, no one took him to the Hospital. He himself visited Niramaya Hospital by rickshaw. He immediately gave call to the relatives to attend the hospital. He visited hospital. The deceased was declared dead. The Petitioners and the co-accused are responsible for the death of deceased.

3. During the pendency of the bail application, the informant filed a pursis at Exhibit-20 disclosing that the matter is settled amicably outside the court and the Petitioners undertake to deliver three flats and remaining one to the heirs of the deceased. It is also pointed out to the trial court that wife of deceased has received a demand draft of Rs.70 lakhs in view of the settlement.

4. In the above referred backdrop that the matter has already been settled between the parties, the present petition has been moved by the Petitioners for quashing of FIR in question.

5. We have heard learned Counsel for the parties.

6. Learned Counsel for the Petitioners submits that the dispute involved in the present matter is purely a commercial and private dispute. There is no element of public law involved in the present matter.

7. It is submitted that the CC TV footage of the office of the Petitioners clearly shows that the Petitioners have taken the deceased to the hospital. It is submitted that there is nothing to implicate the Petitioners for abetment of suicide of deceased.

8. It is argued that this court in the case of **Akshay Kishor Rajpurkar vs. State of Maharashtra**¹ has held that it is extremely doubtful so as to whether, non-payment of amount and giving threats for not making payment would fall within the definition of abetment under Section 307 of IPC. Consequently, even allegation of offence under Section 306 of IPC will not attract.

9. Learned Counsel for the Petitioners submits that in view of the settlement of the matter and as the payment has already been made and the MOU has been executed for giving flats, nothing remains in the matter and therefore, the FIR may be quashed.

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10. Learned APP opposes the present application and submits that the offence is serious and therefore, this court may not take into consideration the settlement between the parties.

11. In view of the fact that the dispute has already been settled and law laid down by the Apex Court in the case of **Madan Mohan Abbot vs. State of Punjab**, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforesaid fact-situation, the continuation of prosecution of the Petitioners in the instant case will amount to abuse of the process of Court and therefore, it is in the fitness of things to quash the FIR and proceeding in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

12. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of **Narinder Singh vs. State of Punjab** [2014 AIR SCW 2065], we are of the considered view that there is no impediment in quashing the criminal proceedings in question.

13. From the above referred judgment, it is clear that even in the case of 306, this court may consider the case for quashing of FIR, looking into the allegations made in the FIR. The FIR was lodged by the brother-in-law of the deceased on the basis of conversation between the informant and the deceased on telephone. Moreover, now the record shows that the

parties have settled the matter and in view of that settlement, the wife of the deceased has received Rs.70 lakhs from the Petitioners and MOU has been executed in respect of four flats.

14. In view of the observations recorded hereinabove by this court, we pass the following order :

ORDER

The petition is allowed. FIR No.422/2021 registered at Nigadi Police Station, District Pimpri-Chinchwad against the Petitioners for the offences punishable under Sections 420, 306, 506 read with 34 of IPC is hereby quashed and set aside. No order as to costs.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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