

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 279 OF 2020

- 1] Chandu @ Dnyaneshwar S/o Yuvraj Folane @ Kolane,
Age : 24 years, Occu. : Service,
R/o Kalika-Paradise, Mali Ali Gandhi Peth
Chinchwadgaon, Pune – 411 038
- 2] Rambhabai W/o Madhukar Bhalekar,
Age : 39 years, Occu : Household,
R/o. Kasar – Javla, Tq. & Dist. Latur .. Applicants

Versus

- 1] The State of Maharashtra through
Police Inspector, Yusuf-Wadgaon Police Station,
Kaij, Ta. Kaij, Dist. Beed
- 2] Deelip S/o Laxman Ingle,
Age : 38 years, Occu : Labour,
R/o : Kalam – Amba, Ta. Kaij, Dist. Beed,
Presently residing at Benkar Vasti,
Dhayari, Pune .. Respondents

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Advocate for applicants : Mr. Satish A. Gaikwad
Addl. PP for the respondent – State : Mrs. M.A. Deshpande
Advocate for the respondent no. 2 (appointed) : Mr. R.D. Thorat

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

DATE : 13 APRIL 2023

ORDER (MANGESH S. PATIL, J.) :

Applicants are seeking quashment of crime no. 139 of 2019 registered with Yusuf Wadgaon Police Station District Beed for the offences punishable under section 306 r/w. 34 of the Indian Penal Code and R.C.C. no. 32 of 2020 pending before learned Judicial

Magistrate First Class, Kaij, District Beed for the offences punishable under section 306 r/w. 34 of the Indian Penal Code.

2. We have heard both the sides finally.

3. FIR is lodged by the respondent no.2 who happens to be the paternal uncle of the deceased who committed suicide by hanging himself on 06-09-2019 in the morning hours. The FIR reads that the ancestral land was sold by the respondent no. 2's father about a year ago. An amount of Rs.90,000/- was still to be recovered from the purchasers. When the deceased raised the demand for that balance amount of consideration 3-4 months ago, the purchaser Dnyaneshwar Ingle had assaulted him about which the deceased had informed the respondent no. 2 on telephone. It is then alleged that after the deceased hanged himself and the relatives came to know about it they rushed to the spot and found a chit in his pocket wherein it was mentioned that somebody had given him threat stating that he would face dire consequences if the land was not transferred in the name of Hrishikesh Bhalekar and Chandu Kolane and for that reason he was under stress. Chandu Kolane is applicant no. 1 and applicant no. 2 happens to be the mother of the accused no. 1 - Kavita with whom the deceased was having affectionate relation. It is then alleged that all the accused including the present two applicants had instigated the

deceased to commit suicide by putting him under stress by threatening him and demanding the land.

4. The learned advocate for the applicants would submit that accepting the allegations in the FIR and the chit left behind by the deceased at their face value, the deceased was under stress for variety of reasons. The conduct attributed to the applicants alone was not the cause. In any event, assuming that the applicants had threatened the deceased, that would not constitute instigation as defined under section 107 of the Indian Penal Code. Apart therefrom whatever is mentioned in the chit, has been mentioned in the FIR. The deceased was also under stress since the balance amount of consideration of Rs.90,000/- was not recovered. Those persons have not been arrayed as accused. He would submit that it appears that there were variety of factors which had culminated in the deceased taking the last step. There was no conspiracy, none of these accused persons had acted in unison. The action to commit suicide depends on variety of factors. Applicants alone cannot be attributed with abetment.

5. Learned Addl. PP and and Mr. R.D. Thorat strongly oppose the application.

6. Learned Addl. PP submits that the chit found on the person of the deceased as also the telephone conversation of the deceased with the accused no. 1 - Kavita clearly shows that they were in talking

terms and had even expressly declared to her his intention to end his life. She would submit that the prosecution deserves to be extended an opportunity to establish the charge by leading evidence.

7. We have carefully considered the rival submissions and perused the papers.

8. At the outset, it is necessary to bear in mind the fact that the offence punishable under section 306 of the Indian Penal Code has to be read with section 107 of the Indian Penal Code which defines 'abetment'. It could take three forms; instigation, intentional aid or conspiracy. The prosecution is basing the charge on the ground that the conduct of the applicants in putting the deceased under stress by threatening him would tantamount to instigation. This was the basic cause which had led him to end his life. But then there is a marked difference in cause and *causa causans*.

9. Accepting the allegations in the FIR and the statements of the witnesses at their face value at the most it would reveal that the deceased was having some affectionate relations with the main accused - Kavita who happens to be the daughter of the applicant no. 2. The telephonic conversation placed on record by the learned Addl. P.P. between these two individuals clearly indicates that the deceased was under some stress during this conversation and had even indicated that he was to end his life. But there is absolutely no whisper

about he having been subjected to some stress on account of the alleged threats and demand for transfer of the land.

10. Again, the FIR refers to one additional factor which again could have been another reason for the deceased to be under mental stress. The ancestral land was sold and he was still to get an amount of Rs.90,000/- and when he had demanded the money to the purchasers they had threatened and beaten him about which he had made a phone call to the respondent no. 2. Apart from the vague and omnibus statement about the applicants having threatened the deceased along with other three accused persons and such threats would constitute instigation, is something which would be a far fetched conclusion.

11. In our considered view, accepting the allegations at their face value as it is the role attributed to the applicants, by no stretch of imagination would constitute instigation. It would be an abuse of the process of law to make them face the trial.

12. The Application is allowed.

13. Crime no. 139 of 2019 registered with Yusuf Wadgaon Police Station District Beed for the offences punishable under section 306 r/w. 34 of the Indian Penal Code and R.C.C. no. 32 of 2020 pending before learned Judicial Magistrate First Class, Kaij, District

Beed for the offences punishable under section 306 r/w. 34 of the Indian Penal Code is quashed and set aside.

14. Fess of learned advocate appointed to represent respondent no. 2, is quantified to be Rs.3000/- (Rs. Three Thousand).

[ABHAY S. WAGHWASE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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