

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

CRIMINAL APPLICATION NO. 222 OF 2021

Walmik Madhukar Baviskar

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. N.L. Choudhari, Advocate for applicant

Mr. P.N. Kutti, A.P.P. for respondent no.1 – State

Ms. Sayali Tekale Dadpe, Advocate for respondent no.2 (appointed)

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**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

DATE : 25th OCTOBER, 2023

PER COURT :

1. Heard.

2. This is an application, under Section 482 of Code of Criminal Procedure, for quashment of the First Information Report ('F.I.R.'), being Crime No. 26 of 2020 registered with Chopda City Police Station, Dist. Jalgaon for the offences punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code and consequential Charge-sheet No. 4 of 2014 and R.C.C. No. 11 of 2021 pending on the file of J.M.F.C., Chopda.

3. The F.I.R. has been lodged by father of the deceased – Prafulla Dhangar on 08th February, 2020. Gist of the averments in the F.I.R. is that

the deceased would run a poultry farm. He had availed hand loan from many persons including the applicant herein. It is the case of the informant that the deceased had repaid money of all his creditors, still all of them used to visit his residence, demanding the amount alongwith interest on the amount advanced. Those creditors used to give the deceased threats. The deceased was, therefore, under stress. He used to sleep at poultry farm. Apprehending threat to his life, his parents had asked their servant Bhika Barela to be always with him. It was the intervening night of 06th and 07th February, 2020. Some unknown persons on motorbike had come to the poultry farm. They gave the deceased call. Since there was no response from inside, they went away. On the following morning, the deceased was found to have committed suicide by hanging.

4. It is also the case of prosecution that just 2-3 days before the deceased committed suicide, when mother of the deceased was cleaning the house, she came across a suicide note left behind by the deceased. The said suicide note was containing names of some of the creditors, who used to give threats to his life if they were not repaid with the amount advanced to him. As such, it is the case of the prosecution that the deceased committed suicide as he felt living unbearable due to stress and harassment given by the persons named in the suicide note and F.I.R. as well. On investigation, charge-sheet has been filed.

5. Learned counsel for the applicant would submit that name of the applicant does not figure in the suicide note. As per the averments in the F.I.R., on 28th January, 2020 at 08.30 p.m. the applicant had been to the house of the informant enquiring about Prafulla (deceased). The applicant informed mother of the deceased that he had paid Rs.3,50,000/- as hand loan to Prafulla and he has, therefore, come to get his money back. He further picked up quarrel over the deceased not paying back his money. In the further portion of the F.I.R. nothing has been attributed to the present applicant. According to learned counsel, the applicant's conduct of visiting the informant's house to get back the money and if any quarrel that took place over the same can in no way be termed to have intended to drive the deceased to commit suicide and cannot attract essential ingredients of offence of abetment. He adverts out attention to Section 107 I.P.C. He further points out applicant's name to have not been figured in the suicide note. He, therefore, urged for grant of application.

6. Learned A.P.P. and learned counsel appointed to represent Respondent No.2 would, on the other hand, submit that name of the applicant figures in the F.I.R. No mini trial can be conducted in the proceeding under Section 482 of Cr.P.C. Our attention has also been adverted to the statements of one Vidya Patil and Pravin Deshmukh to suggest that on the given day the applicant had visited the house of the

informant and picked up a quarrel over amount not paid back. According to learned counsel, the applicant may have a good case on merits but is not entitled for quashment of F.I.R. and consequential charge-sheet.

7. Considered the submissions advanced. Perused the F.I.R. and related police papers. The petitioner adverted the material on record. It is necessary to have a glance at the relevant provisions of the I.P.C. as under :-

“Sec.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.

Sec.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.”

8. It needs no mention that intention is an essential ingredient of offence of abetment. Admittedly, in the suicide note name of applicant does not figure. Same suggests the deceased did not claim to have ever been harassed by the applicant. The deceased even did not claim to have

committed suicide due to harassment and ill-treatment allegedly meted out by the present applicant. The incident dated 28th February, 2020, on which the applicant paid visit to the house of the informant and made demand of amount paid to the deceased and picked up quarrel over the same, would in no way lead us to infer that action of the applicant was with the intention to drive the deceased to commit suicide, although statements of the witnesses relied on are taken at their face value, the same corroborate the averments in the F.I.R. in relation to the incident dated 28th February, 2023. We are of the view that applicant's visiting the house of the deceased, making demand of amount and the quarrel over the same can in no way lead us to observe him to have behaved with intention to drive the deceased to commit suicide. Directing the applicant to stand trial, based on such material, would be an abuse of process of Court. We are, therefore, inclined to allow the application.

9. In view of above, criminal application succeeds. Same is allowed in terms of prayer clause [B].

(NEERAJ P. DHOTE, J.)

SSD

(R.G. AVACHAT, J.)