

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 535 OF 2023

1] Waman S/o Gangadhar Pawar,
Age 34 years, Occu Nil,
R/o Kondha, Tq. Ardhapur,
Dist. Nanded

2] Swapnil S/o Vilasrao Duddalwar,
Age : 38 years, Occu : Medical Practitioner,
R/o Kamtha (Bk), Tq. Ardhapur,
Dist. Nanded

.. Applicants
(Orig. Accused)

Versus

1] The State of Maharashtra,
Through the Police Inspector,
Ardhapur Police Station,
Tq. Ardhapur, Dist. Nanded

2] Kavita W/o Hari Jadhav,
Age : 43 years, Occu : Household & Agri.,
R/o Kondha, Tq. Ardhapur,
Dist. Nanded

.. Respondents

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Advocate for the applicant : Mr. Shailendra S. Gangakhedkar
APP for the respondent – State : Mr. G.O. Wattamwar
Advocate for the respondent no. 2 : Mr. Vaibhav B. Dhage

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

DATE : 12 APRIL 2023

ORDER (MANGESH S. PATIL, J.) :

Heard finally.

2. The applicants are seeking quashment of the crime
no. 227 of 2022 registered with Ardhapur Police Station, District

Nanded for the offence punishable under section 306, 506 r/w. 34 of the Indian Penal Code.

3. Mr. Dhage submits that he has instructions to appear on behalf of the respondent no. 2 and files affidavit consenting for quashment of the crime.

4. Since it is a crime for the offence punishable under section 306 of the Indian Penal Code, independent of consent of the respondent no. 2 we propose to decide the matter on merits.

5. The sum and substance of the FIR lodged by the respondent no. 2 is to the effect that the deceased was her husband and was working in the market of agricultural produce as a middleman. For that purpose he used to obtain hand loan from the applicants. As soon as the goods were sold, he used to repay them. However, during lockdown period he could not sell the goods and was unable to repay them. The applicants started insisting for repayment and threatened him of dire consequences. Somehow, the deceased could repay Rs.6,65,000/- on 27 July 2022. On 2 August 2022, the applicant no.1 went to the house of the deceased and threatened to kill him if the money was not repaid. When the deceased told him about having already paid the money to the applicant no. 2, both the applicants continuously pressurized him by demanding money. He was under tremendous pressure and hanged himself on 4 August 2022 before

5:00 am. On 10 August 2022, FIR was filed to the effect that since the respondent no. 2 was in bereavement, some delay was caused in approaching the Police.

6. The learned APP submits that at this juncture, there is nothing to disbelieve the statement in the FIR. Version is not improbable. The deceased was indebted to the applicants and the latter were pressurizing and harassing him for the repayment. As a result, such conduct of the applicants which was the cause for the deceased to commit suicide would constitute abetment by instigation.

7. As we have mentioned herein-above, in fact, the respondent no. 2 has filed an affidavit and has expressly consented for quashment of the crime stating that she and the applicants have resolved the entire dispute amicably.

8. Be that as it may, accepting the statement in the FIR at their face value as also the statements of the witnesses, the deceased was indebted to the applicants and they were pressurizing him to repay the money. There is absolutely nothing on the record to demonstrate that by pressurizing him for repayment of money, the applicants were intending that he commits suicide. They were merely interested in getting back the money. In fact, they must have been more interested in keeping him alive so that they could get back their money rather than being interested in his being dead.

9. The abetment as defined under section 107 of the Indian Penal Code is not the same as is the word 'cruelty' defined under section 498A of the Indian Penal Code. It is defined as a willful conduct as is likely to drive the woman to commit suicide.

10. Consequently, merely because the applicants were persistently demanding money from the deceased which admittedly he owed to them, which has caused some mental disturbance to the deceased unfortunately resulting in his taking a decision to end his life, it cannot be said to be caused by any instigation by the applicants.

11. The Application is allowed.

12. Crime no. 227 of 2022 registered with Ardhapur Police Station, District Nanded for the offence punishable under section 306, 506 r/w. 34 of the Indian Penal Code is quashed and set aside.

[ABHAY S. WAGHWASE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/