

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

CRIMINAL APPLICATION NO.413 OF 2021

1. Swaroopa wd/o. Prashant Bachanti
2. Eknath s/o. Sharanappa Kanchwad ..Applicants

Vs.

1. State of Maharashtra
2. Ramrao Poshanna Bachanti ..Respondents

Mr.Amit Yadkikar, Advocate along with Mr.Shritej Surve, Mr.Akshay Kulkarni, Mr.Shyam Jawale and Mr. Jitendra Chavan, Advocates for applicants

Mr.M.M.Nerlikar, APP for respondent no.1

Mr.A.P.Basarkar, Advcate for respondent no.2

**CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : NOVEMBER 03, 2023**

ORDER (Per: Sanjay A. Deshmukh, J.) :-

This is an application under Section 482 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), for quashment of the FIR, being Crime No.392 of 2021, registered with Bhagya Nagar Police Station, Nanded, for the offences punishable under Sections 306, 504 and 506 read with Section 34 of Indian Penal Code (for short "IPC") and the consequential charge-sheet filed before learned Addl. Chief Judicial Magistrate, Nanded, in R.C.C. No.677 of 2021.

2. Respondent no.2 lodged a report on 07.11.2020 and averred that his son Prashant (deceased) was married with applicant no.1 on 09.05.2018. He was serving as Assistant Professor in College of Dairy Technology, Kavalkhed Road, Udgir, Dist. Latur, since last 10 years. He begotten a daughter, who was one and half years of age at the time of the incident. Initially, applicant no.1 cohabited with Prashant properly. Thereafter, she started harassing him on account of purchase of a plot/house. It is further averred that Prashant tried to convince her that he was not having money for purchase of plot or house. Therefore, in the month of December, 2019, applicant no.1 made a phone call to the informant and demanded Rs.10 Lakhs for purchase of plot. The informant told her that he was able to pay Rs.2-3 Lakhs only. Applicant no.1 used to harass Prashant on that count. She always used to tease Prashant by saying that she was not sexually satisfied with him. Thereafter, quarrel between them continued. Prashant told said fact to the parents of applicant no.1. Thereupon, applicant no.2 (father of applicant no.1) threatened him that he will cut his legs and will see him in the court of law.

3. It is further averred in the report that on 28.02.2020, when the daughter of Prashant and applicant no.1 was suffering from illness, the informant went to see her at the house of Prashant. That time, applicant no.1 took quarrel with the informant and his wife and directed them to stay separately. Applicant no.1 was not allowing Prashant to employ maids for household work. As applicant no.1 was not providing food to Prashant, he used to have meal at mess. Once Prashant was suffering from typhoid and therefore, applicant no.2 left home and went to her parental house. Therefore, on 03.08.2020, the informant took Prashant to their house for giving treatment. That time, he told that applicant no.1 (wife) was harassing him. Her father (applicant no.2) used filthy language and threaten him to cut his legs and to see him in court of law. Prashant continuously remained under pressure. On 06.10.2020, he was alone in the home. He had made a phone call to his brother - Dipak that he is committing suicide on account of harassment of the applicants. Dipak tried to convince him but he committed suicide.

4. It is also averred in the report that earlier thereto, on 02.03.2020, Prashant had made a complaint to Police Station, Udgir, alleging that his wife was torturing him for purchase of plot or home.

She was teasing him on account of sexual dissatisfaction from him. He also alleged that the applicants threatened him to cut his legs. Therefore, due to the harassment of the applicants, Prashant committed suicide.

5. Learned counsel for the applicants submits that applicant no.1 had made a complaint against the informant and other relatives on 04.11.2020 to the Superintendent of Police, Nanded, and thereafter, the report came to be lodged by respondent no.2 – informant. He submits that there is no direct or indirect instigation on the part of the applicants to commit suicide by Prashant. On the contrary, the informant has used ATM card and blank cheques and withdrawn Lakhs of rupees from the account of Prashant. After the incident of suicide, signatures of applicant no.1 were taken on blank papers and she was expelled from that place. Therefore, there is no substance in the report lodged by respondent no.2. Learned counsel lastly submitted that *prima facie* case is not made out against the applicants herein. He, therefore, prayed for quashment of the FIR and the charge-sheet.

6. Learned APP for respondent no.1 - State and learned counsel for respondent no.2 – informant pointed out that there is

prima facie strong evidence of harassment by the applicants by demanding Rs.10 Lakhs to deceased Prashant for purchase of house. There is proximity in the time of instigation to commit suicide, which can be seen from the conduct of applicant no.1. She teased him frequently by saying that she was not sexually satisfied from her husband. Learned APP pointed out the applications dated 02.03.2020, submitted by Prashant to the Women Grievance Redressal Centre and the Police Superintendent, Latur, making allegations that both applicants were harassing him. He submits that there is instigation on the part of both applicants and therefore, Prashant has committed suicide. Both learned counsel, therefore, urged for rejection of the application.

7. Perused the FIR and the charge-sheet. No doubt, there are two applications submitted by Prashant in the month of March, 2020, in which it is mentioned that his wife applicant no.1 was harassing him and therefore, he had complaints against her.

8. The FIR is lodged by respondent no.2 (father of Prashant) on 07.11.2020, i.e. after one month of commission of suicide by Prashant. From the complaint of applicant no.1 dated 04.11.2020 to the Superintendent of Police, Latur, it appears that

she made allegations against the informant and other members of family of her husband, that they withdrew amount of Rs.1 Lakh by misuse of cheques, ATM card, etc. of Prashant. She also requested to enquire into the matter, as to how much amount was withdrawn from the account of her husband. Some ornaments and other documents like policy bonds, etc. were also taken away from her cup-board. Because of her allegations of withdrawal of amount, misuse of ATM card and cheques after death of her husband by the informant, it appears that the report in question is lodged afterthought by the informant. There is no plausible explanation as to why delay of one month was caused for lodging the FIR against the applicants.

9. No doubt, Prashant had made two applications about harassment made by the applicants to him but those are before some months of the incident and that is not proximate cause of abetment or instigation for commission of his suicide, as contemplated by Section 107 of IPC. All these aspects, if considered together, it appears that the ingredients of Section 306 of IPC do not *prima facie* constitute.

10. Learned APP submits that there is no any document showing that the complaint made by applicant no.1 was known to the informant. However, it does not traverse in the affidavit-in-reply filed on behalf of respondent no.2 - informant. Therefore, this argument of learned APP is not acceptable.

11. In these facts and circumstances and reasons discussed above, compelling the applicants to face trial would be an abuse of process of the court. The application, therefore, deserves to be allowed.

12. The application is allowed in terms of prayer clauses (B) and (B-1). No costs.

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP