

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

**CRIMINAL APPLICATION NO.1126 OF 2021**

1. Dilip Gangadhar Jagdale **...APPLICANTS**
2. Popat Dilip Jagdale
3. Dattatraya Dilip Jagdale

**VERSUS**

1. The State of Maharashtra **...RESPONDENTS**
2. Shubhangi Sandu Jagdale

Mr. Satish A. Gaikwad, Advocate h/f Mr. Sopan Bhadge,  
Advocate for the applicants

Mr. Y. L. Bidve, Advocate for the respondent No.2 (appointed)

Mr. S. N. Morampalle, APP for the respondents/State

**AND**

**CRIMINAL APPLICATION NO.1183 OF 2021**

1. Baburao Kashinath Jagdale **...APPLICANTS**
2. Satish Baburao Jagdale
3. Sandeep @ Ganesh Baburao Jagdale

**VERSUS**

1. State of Maharashtra **...RESPONDENTS**  
Through Police Station Phulambri  
Tq. Phulambri, Dist. Aurangabad
2. Shubhangi Sandu Jagdale

Mr. K. F. Shingare, Advocate for the applicants  
Mr. Y. L. Bidve, Advocate for the respondent No.2  
Mr. S. N. Morampalle, APP for the respondents/State

**CORAM : R. G. AVACHAT &  
KISHORE C. SANT, JJ.**

**DATE : 30<sup>th</sup> OCTOBER, 2023**

**P. C.**

1. Heard the learned advocates for the parties.
2. These applications are filed seeking quashment of FIR lodged by respondent No.2 with the Phulambri Police Station for the offences punishable under Section 306 read with Section 34 of the Indian Penal Code and consequently the charge-sheet and further the proceeding.
3. FIR is lodged by respondent No.2 alleging that her husband late Sandu committed suicide on 23-03-2021. It is alleged that there was a dispute pending in the family on account of landed property. The suit was also filed and is pending since 2011. On the date of incident the deceased left the house in the morning at around 09.30. In the afternoon the

informant received information from her brother-in-law that the deceased was found in hanged condition. On that she went to the spot alongwith other relatives. On checking the mobile phone of the deceased it was seen that there was a photograph of a suicide note. From the contents in the suicide note, it was written that the deceased committed suicide because of the harassment at the hands of the present applicants. On the basis of this information FIR came to be registered. The police carried out the investigation and now charge-sheet is also filed. The applicants are thus before this court.

4. Learned advocate for the applicants argued that from the reading of the suicide note as it is no offence can be said to have been made out against any of the applicants. The contents of the suicide note are vague. There is no specific role attributed to any of the applicants. It appears that the deceased was a sensitive person and could not bear the pressure of the said litigation. It is clear that there is a dispute between the family members on account of landed property. However, the applicants

have taken recourse of law by approaching the court. There was no reason to abet the deceased to commit suicide.

5. Learned APP submits that role of the applicants is appearing from the suicide note. The police have carried the investigation and now a charge-sheet is also filed which clearly shows that there is material to prosecute the applicants in the court and he prays for rejection of the applications.

6. Learned advocate for respondent No.2 also vehemently opposed the applications stating that each of the applicants is named in the suicide note. The deceased has no reason to falsely implicate the applicants. It is a matter of record that parties are litigating against each other in the court. Thus, there is clear motive to abet the deceased.

7. Main cause for filing the FIR is suicide note. It is seen that the incident alleged had taken place on 23-03-2021. FIR came to be lodged on 31-03-2021 that is after eight days of

the incident. Till that day there was no suspicion in the mind of respondent No.2. Had there been any incident of pressurizing by the applicants she would have certainly noticed the same. There is nothing on record to show that the deceased prior to the incident has disclosed the state of mind to any one else. Neither it is seen that his behaving was abnormal by his wife or the family members. Till that day he was normal and as a matter of fact he left the house in the morning on that day as usual. The police could not collect any other evidence than the suicide note and the statements of the relatives. From the postmortem note it is seen that the ligature mark also shows that it was a case of suicide. This court therefore has to consider as to whether any abetment is there at the hands of the applicants. In the case of Gurucharan Singh Vs State of Punjab reported in (2020) 10 SCC 200. The Hon'ble Apex Court has held that to make out the case under Section 306 there has to be intention on the part of the accused persons.

8. Next is the judgment in the case of Shabbir Hussain

*Vs State of Madhya Pradesh and others reported in 2021 SCC Online 743.* The Hon'ble Apex Court has held that in order to bring a case within the provision of section 306 of the IPC there must be a case of suicide and in commission of said offence, the persons who is said to have abetted the commission of suicide must have played active role by an act of instigation or an act to facilitate the commission of suicide. In para 5 it is held that mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 of the IPC. Other judgments are also relied upon by the learned advocate for the applicants. However, since those are on the same points this court does not find it necessary to discuss all the judgments.

9. It is thus clear that while considering the case of abetment the court has to consider as to whether any person intentionally aids, instigates or assists a person committing suicide. This court finds that there is no aid, assistance or

instigation at the hands of the applicants. Therefore, this court finds that no case is made out to prosecute the applicants. Prosecution against the applicants would certainly be an abuse of process of law. Hence, the following order.

### **ORDER**

a] The applications stand allowed.

b] The proceeding bearing Sessions Case No.316 of 2022 pending before the learned Additional Sessions Court, Aurangabad and the proceeding bearing RCC No.409/2021 pending before the learned Judicial Magistrate, First Class, Phulambri are hereby quashed and set aside.

c] This court records the appreciation of the learned advocate for the respondent No.2 (appointed) by this court for his assistance. We quantify his fees Rs.7,500/- (Rupees Seven Thousand Five Hundred Only) each to be paid by the applicants within two weeks from today.

**[KISHORE C. SANT, J.]**

**[R. G AVACHAT, J.]**