

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

CRIMINAL APPLICATION NO.1657 OF 2022

Jamir Khan s/o Ansar Khan Pathan ... **APPLICANT**

VERSUS

1. The State of Maharashtra
2. Devidas s/o Nagnath Rajepwad ... **RESPONDENTS**

.....
Mr. S.S. Dargad, Advocate for applicant
Mr. R.V. Dasalkar, A.P.P. for respondent No.1.
Mr. U.B. Bilolikar, Advocate for respondent No.2.
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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 24th JULY, 2023

ORDER :

Heard. This application has been moved for quashment of the F.I.R. bearing Crime No.242/2020, registered with Umri Police Station, District Nanded for the offences punishable under Section 306 read with Section 34 of the Indian Penal code and the consequential proceedings being Sessions Case No.10/2021, pending before the Sessions Court, Bhokar, District Nanded.

2. What can be gathered from the F.I.R. and the police papers is that, the deceased Sairam would bet on the IPL Cricket matches. In one of such betting, he won a sum of Rs.1,72,00,000/-. Thereafter he went on betting, might be on credit. He lost huge amount. He did not pay the amount to the bookies. The bookies, therefore, started visiting the house of the deceased so as to make a demand of money due. Since the deceased could not pay the amount, he appears to have committed suicide.

3. According to the learned A.P.P. and the learned counsel representing the respondent No.2, the applicant and co-accused have time and again harassed the deceased by making demand of the money. The deceased was repeatedly called on cell phone and asked to pay back the amount due.

4. According to learned counsel, the deceased was under tremendous mental stress and left with no option but to commit suicide due to the conduct of the applicant and the co-accused. According to them, it is for the trial Court to decide the matter on merits since there is prima facie material to proceed against the present applicant. They, therefore, urged for rejection of the application.

11. Section 306 of Indian Penal Code reads:-

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.

Section 107 of Indian Penal Code reads:-

Section 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.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

5. Admittedly, the deceased did not leave behind suicide note. He was indulged in betting of IPL Cricket matches. He played very many bets on credit. Initially he won Rs.1,72,00,000/-. Later on he appears to have lost a hefty amount. The bookies appear to have given him credit. Since he did not pay their money, those persons started making him phone calls with a demand for

payment of money due. It appears that, the deceased was under stress and, therefore, committed suicide.

6. In our view, a creditor would not wish his debtor to die. The conduct of the applicant in asking the deceased to pay his amount due to him would by no stretch of imagination be termed to be done with an intention to drive the deceased to commit suicide. As such, the material ingredients of offence of abetment to suicide (mens rea) being lacking, asking the applicant to stand trial, based on such material, would be an abuse of process of Court. We are, therefore, inclined to allow this application. Hence, the application is allowed in terms of prayer clause (B).

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-