

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

CRIMINAL APPLICATION NO.2394 OF 2022

Vijaya w/o Mahadev Jagtap
Age 55 years, Occu. Household,
R/o Khopegaon Road, Pragati Nagar,
Latur, Tq. & District Latur.

... APPLICANT

VERSUS

1. The State of Maharashtra
through Investigating Officer,
Police Station Vivekanand Chowk,
Latur, Tq. & District Latur.
(Copy to be served on A.P.P.,
High Court of Bombay,
Bench at Aurangabad)

2. Latabai wd/o Ulhas Patil,
Age 41 years, Occu. Housemaker,
R/o Pragati Nagar, L.I.C. Colony,
Latur.

... RESPONDENTS

.....
Mr. Shrikrishna S. Shinde, Advocate for applicant
Mrs. V.N. Patil Jadhav, A.P.P. for respondent No.1
Mr. B.A. Dhengale, Advocate for respondent No.2.
.....

WITH

CRIMINAL APPLICATION NO.3280 OF 2022

Limbraj Keshavrao Jadhav
Age 50 years, Occu. Service,
R/o Pragati Nagar,
L.I.C. Colony, Latur.

... APPLICANT

VERSUS

1. The State of Maharashtra
Vivekanand Chowk Police Station,
Latur
2. Latabai Ulhas Patil,
Age adult, Occu. Household,
R/o Pragati Nagar,
L.I.C. Colony, Latur.

... RESPONDENTS

.....
Ms Priyanka R. Deshpande, Advocate for applicant
Mrs. V.N. Patil Jadhav, A.P.P. for respondent No.1
Mr. B.A. Dhengale, Advocate for respondent No.2.
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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 4th JANUARY, 2023

P.C. :

With consent, heard finally at the stage of admission.

2. By these applications filed under Section 482 of the Code of Criminal Procedure, the applicants have sought to quash the criminal proceedings being R.C.C. No.731/2022, pending before the 2nd Jt. Judicial Magistrate, First Class, Latur for offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

3. Heard learned counsel for the applicants, learned A.P.P. for the State and learned counsel for respondent No.2.

We have perused the record and considered the submissions advanced by learned counsel for the parties.

4. The brief facts necessary to decide these applications are as under :

Latabai Patil, widow of Ulhas Patil has lodged the F.I.R. dated 28/10/2021, alleging that, her husband had borrowed money from several persons and that the said persons demanded repayment of loan with interest. She has stated that, on 25/10/2021 at about 7.45 p.m., the co-accused Sundar Gajanan Patil and his son Onkar came to their shop and demanded money from her husband. They abused him and threatened to seal the shop on his failure to return the money. She stated that, her husband had assured that he would return the money along with interest. She claims that, on 26/10/2021, her husband committed suicide due to alleged torture and mental stress caused by constant demands raised by the creditors. He left a suicide note specifying the names of the creditors. Based on the First information Report and the suicide note, the crime has been registered against the applicants and others who are named in the suicide note for abetting suicide of Ulhas Patil and thereby committing an offence under Section 306 of the Indian Penal Code.

5. Before advertng to factual matrix, it is necessary to refer to the essential ingredients of Section 306 of the Indian Penal Code. This is essential to ascertain whether the allegations in the First Information Report, taken as they stand, would bring the case within the fold of Section 306, which reads thus :

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.

The term 'abetment' is defined in Section 107 of the Indian Penal Code. Section 107 provides that :-

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 willful misrepresentation, or by willful 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 facilitate the commission thereof, is said to aid the doing of that act.

6. In the recent decision in the case of Arnab Manoranjan Goswami Vs. State of Maharashtra, reported in (2021) 2 SCC 427, the Hon'ble Supreme Court has considered the scope of Section 482 of the Code of Criminal Procedure and Sections 306 and 107 of the Indian Penal Code. The Apex Court referred to the earlier decisions on the interpretation of Sections 107 and 306 of the Indian Penal Code and held thus :

“The first segment of Section 107 defines abetment as the instigation of a person to do a particular thing. The second segment defines it with reference to engaging in a conspiracy with one or more other persons for the doing of a thing, and an act or illegal omission in pursuance of the conspiracy. Under the third segment, abetment is founded on intentionally aiding the doing of a thing either by an act or omission. These provisions have been construed specifically in the context of Section 306 to which a reference is necessary in order to furnish the legal foundation for assessing the contents of the FIR.

These provisions have been construed in the earlier judgments of this Court in State of W.B. Vs. Orilal Jaiswal [(1994) 1 SCC 73], Randhir Singh Vs. State of Punjab [(2004) 13 SCC 129, Kishori Lal vs State of MP [(2007) 10 SCC 797] (“Kishori Lal”) and Kishangiri Mangalgiri Goswami vs State of Gujarat [(2009) 4 SCC 52]. in Amalendu Pal vs State of West Bengal [(2010) 1 SCC 707], Mukundakam [Sharma](#), J., speaking for a two judge Bench of this Court and having adverted to the earlier decisions, observed:

“12. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.”

7. In the light of the aforesaid position of law, the question for consideration is whether the First Information Report and the other material on record disclose essential ingredients of abetment within the meaning of Section 107.

8. The First Information Report indicates that the deceased had taken loan from several persons including the applicants herein. He was unable to repay the loan and the creditors were making constant demands for repayment. The

deceased was under stress and mental pressure due to the demands made by the creditors. Unable to cope up with the pressure, he committed suicide. The suicide note left behind by the deceased gives names of the creditors and further states that, Pruthviraj Patil and his father were demanding money though he had paid part of the money and hence, he had committed suicide. The complaint as well as the statements of the witnesses do not indicate the applicants were in any manner responsible for his death. The First Information Report as well as other records do not disclose offence as against the present applicants. In such circumstances, continuance of criminal proceedings against these applicants would amount to sheer abuse of process of law.

9. Hence, both the Criminal Applications are allowed. The proceedings of R.C.C. No.731/2022, pending before the 2nd Jt. Judicial Magistrate, Latur for offence punishable under Section 306 read with Section 34 of the Indian Penal Code are quashed qua the present applicants.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-