

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3834 OF 2022

1. Anand s/o Ramesh Rao Pande
2. Lalitadas s/o Bhavanidas Deshpande ...Applicants

Versus

1. The State of Maharashtra
2. Gopal Kishan Jagtap ...Respondents

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Mr. D.S. Patil h/f Mr. S.S. Gangakhedkar, advocate for applicants
Mrs. Vaishali S. Chaudhari, A.P.P. for respondent No.1-State
Mr. A.R. Borulkar, advocate for respondent No.2
.....

AND
CRIMINAL APPLICATION NO. 3934 OF 2022

1. Rajabhau s/o Venkat Rao Deshmukh
2. Kiran s/o Kishan Rao Narsikar ...Applicants

Versus

1. The State of Maharashtra
2. Gopal Kishan Jagtap ...Respondents

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Mr. Sachin S. Deshmukh, advocate for applicants
Mr. N.T. Bhagat, A.P.P. for respondent No.1-State
Mr. A.R. Borulkar, advocate for respondent No.2
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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 9th AUGUST, 2023.**

COMMON ORDER (PER SANJAY A. DESHMUKH, J.)

Heard the learned advocates for the respective parties.

2. These applications are filed under Section 482 of Cr.P.C. for quashment of the F.I.R. No. 121 of 2022 registered with Narsi Namdeo police station, District Hingoli, for the offences punishable under Sections 306, 506 r.w. 34 of the I.P.C. and the consequential charge sheet bearing R.C.C. No. 194 of 2023 filed in the court of J.M.F.C. Hingoli.

3. The informant/respondent No.2 has lodged the F.I.R. alleging that he himself and his brother Gajanan made an application to the Tahsildar, Hingoli for appointing him as servant (*Sevak*) of Ghotadevi temple trust at Hingoli in place of his deceased brother Rajesh. It is alleged that the accused Rajabhau Deshmukh and Kiran Narsikar, who are President and member of the trust, respectively, had opposed the said application before the Tahsildar by putting some stringent terms and conditions which were not agreeable to the informant and his deceased brother. At that time, out of Tahsil office, all these applicants threatened the informant that if the informant and his brothers are not agreeable to the terms and conditions put by them, they will stop their income from the said temple and they will be removed from the service of it.

4. On 13.9.2022, the informant's brother told him that Rajabhau, the president of the Trust, came in the temple and threatened him that unless he agree to those terms and conditions they will kill him and his family members. He also told that all the

applicants were harassing them. Then the brother of the informant went to sleep in the temple at about 9.00 p.m.

5. In the morning of 14.9.2022, when Gajanan did not turn to the house, the informant went to the temple. He saw that his bed was neatly kept there. He took search of his brother there. He found that on the first floor of the temple, his brother had committed suicide by hanging himself with the rope to the iron angle. He called peoples there. The police took out three suicide notes out of his pocket of shirt and he lodged the report of the said incident to the police on the same day.

6. The learned advocates for the applicants in both these applications submitted that there is no prima facie evidence of instigation to the brother of informant on the part of the applicants as contemplated under Section 107 of I.P.C. The allegations are that the applicants were misusing their powers and harassing the deceased on the basis of the caste are totally false. It is submitted that the report has been lodged to take disadvantage of suicide committed by deceased Gajanan with an ulterior motive to drag them in a false case. It is also submitted that it is not clear as to who is the author of alleged suicide notes, addressed to the Chief Minister and the District Collector. They further pointed out that there is absolutely no evidence of abetment to commit suicide on the part of the applicants. The learned advocates therefore, prayed to quash the

report as well as the charge sheet.

7. The learned advocate for the respondent/informant and the learned A.P.P. have strongly opposed the applications on the ground that there is strong evidence against the applicants. The suicide notes and the report clearly point out the roles of the applicants that they abetted Gajanan to commit suicide. They lastly prayed for rejection of the applications.

8. Perused the charge sheet. In the suicide notes of the deceased, it is contended that Rajabhau Deshmukh, who is President of the Trust viz. Ghotadevi temple misused his power and harassed him on account of his caste. The names of the applicants are mentioned in the F.I.R. and suicide note but in what manner they instigated him to commit suicide is not spelt out from the suicide notes. Thus, mere commission of suicide is not sufficient to hold that the applicant have abetted to commit suicide unless there is instigation on the part of the applicants to commit suicide. Considering these aspects, in our view, in absence of material evidence of instigation on the part of the applicants, it would not be legal and proper to compel the applicants to face the trial. Thus, in absence of the cogent material against the applicants, report and the charge deserve to be quashed.

9. In view of the above, criminal application No. 3834 of 2022

is allowed in terms of prayer clauses “A” and “B-1” and criminal application No. 3934 of 2022 is allowed in terms of prayer clause “A”.

No costs.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

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