

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3921 OF 2022

1. Sushilabai W/o Kalyan Gajbhare
2. Vandana W/o Sanjay Bansode
3. Sanjay Piraji Bansode
4. Swapnil @ Mangesh S/o Sanjay Bansode
5. Arvind @ Arun Kalyan Bansode

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
2. The Police Sub-Inspector,
Police Station, Vimantal, Nanded.
3. Laxmi W/o Surajsing Thakur

..RESPONDENTS

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Advocates for Applicants : Ms.Maya Jamdhade and Ms.Kavita Jamdhade

APP for the Respondent/State : Mr.N.T. Bhagat

Advocate for respondent no.3 : Mr.Disha Sasane (appointed)

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATED : 18th JULY, 2023.

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

1. This is an application filed under section 482 of the Criminal Procedure Code, 1973 (for short, "the Cr.P.C.") for quashment of charge-sheet bearing No.187 of 2020 and further proceeding filed on 30.11.2020 for the offence punishable under sections 306, 504, 506 read with 34 of the Indian Penal Code, 1860 (for short, "IPC") in pursuance of FIR bearing C.R. No.139 of 2019 dated 24.06.2019

registered with Vimantal Police Station, Nanded.

2. Respondent No.3 informant – Laxmi Thakur lodged a report in Vimantal Police Station, Nanded alleging that the modesty of daughter of applicant No.1 was outraged by Pavan who is son of the respondent No.3 in October, 2018. Therefore, applicant No.1 lodged a report at Vimantal Police Station bearing C.R. No.252 of 2018 u/s 452, 354, 323, 506, 34 of IPC, u/s 8 and 17 of the Protection of Children from Sexual Offences Act, 2012 and u/s 3 (1)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against her and her brothers Pavan and Ganesh. They were arrested. They got bail on 14.05.2019.

3. Thereafter, on 21.06.2019 (i) Arvind Kalyan Gajbhare, (ii) Sanjay Bansode, (iii) Kalyan Gajbhare and (iv) Swapnil Bansode abused and threatened the brother of the informant viz., Pavan that they will not allow to live him and his family members happily. After listening that quarrel, Shushila Gajbhare, her daughters Sonal Gajbhare and Vandana Gajbhare came in front of the house of the informant. They made hue and cry there and threatened to kill them. That time, Raju Shinde and parents of the informant as well as her brother pacified that quarrel. That time, they threatened and went away.

4. Pavan had love affair with Sonal Gajbhare. They used to give love letters to each other. Therefore, Sonal Gajbhare and her relatives were harassing Pavan and informant. Therefore, Pavan committed suicide on 21.06.2019 by hanging in his house at about 5.30 p.m. That time, informant, her parents and brother Ganesh rescued Pavan. He become unconscious. He was admitted in the Civil Hospital, Vishnupuri, Nanded. However, he died on 23rd June, 2019. Therefore, informant Laxmi lodged the report in question with Vimantal Police Station alleging that the applicants and others instigated Pavan, and hence he committed suicide.

5. The learned advocate for the applicants submitted that the applicants are falsely implicated in the crime due to earlier enmity. They never instigated Pavan to commit suicide, and therefore, there is no prima facie case against the applicants as false report is lodged due to the earlier enmity. They prayed for quashing the report and consequential charge-sheet No.187 of 2020.

6. The learned advocate for respondent no.3-informant and the learned APP submitted that the report itself is sufficient to infer that because of the harassment caused by the applicants and other accused, deceased Pavan committed suicide. The report prima facie

establishes the instigation on the part of the applicants, which forced Pavan to commit suicide. It is lastly prayed to reject the application.

7. Perused the charge-sheet. To compel Pavan to commit suicide, the instigation on the part of the applicants as contemplated u/s 107 of IPC must be prima facie established. The report of threatening Pavan to kill about incident dated 21.06.2019 is not lodged by the informant.

8. Merely because there was earlier FIR registered against the informant by the applicants, it can not be inferred that the applicants have instigated deceased Pavan to commit suicide. In the absence of evidence of overt act of instigation on the part of applicants to commit suicide, they can not be compelled to face the trial under section 306 etc. of the IPC. Thus only on account of commission of suicide by Pavan, other accused cannot be compelled to face the trial. It is further important to note that on 19.10.2018, the report was lodged by Shushilabai Gajbhare against deceased Pavan and others for outraging the modesty of her daughter and this is a reason for false implication of the present applicants in this case. Therefore, in the background of the fact situation to compel the applicants to face the trial would be an abuse of process of the Court. The report and charge-sheet No.187 of 2020 deserve to be quashed. Hence, the

application deserves to be allowed.

9. For the reasons discussed above, the argument of the learned counsel for informant and learned APP is not acceptable in this regard.

10. In the result, the application is allowed in terms of prayer clause "C".

11. The applicants shall deposit Rs.10,000/- with this Court within five weeks. Once the amount is deposited, the same be paid to appointed Advocate for respondent no.3 Ms.Disha Sasane, as fees.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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