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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.445 OF 2015

Ashok Bhimrao Patil And Others	..	Petitioners
v/s.		
State of Maharashtra & Ors.	..	Respondents

WITH
CRIMINAL WRIT PETITION NO.446 OF 2015

Shafiq Pir Mohammad Ansari	..	Petitioner
v/s.		
State of Maharashtra & Ors.	..	Respondents

....

Mr. Subhash Jha, a/w. Mr. Dwivendra Dubey and Meena Mishra, i/b.
Law Global, for the Petitioners.

Ms. Anamika Malhotra, APP, for Respondent State.

Mr. Dushyant Pagare, for Respondent No.2.

....

CORAM: R.G. AVACHAT, J.

DATE : 14 FEBRUARY 2023.

P.C:-

Both these writ petitions are being decided by this common order, since they arise from one and the same crime registered

against the Petitioners herein.

2. These writ petitions, under Article 227 of the Constitution of India, challenge order of J.M.F.C., Bhiwandi, refusing to accept “B” Summary Report and order of Assistant Sessions Judge, refusing to grant the Petitioners herein discharge from Sessions Case No.296 of 2014.

3. Heard. The Petitioners are accused in Sessions Case No.296 of 2014, registered pursuant to C.R. No.I-61/13, registered with Shantinagar Police Station, Bhiwandi, Dist. Thane, for offence punishable under Section 306, r/w 34 of the Indian Penal Code. Rule was also already granted in these petitions vide order dated 30 November 2016.

4. The FIR was lodged by Mohammed Shaban Vazir Ansari, father of deceased Salim. It is his case that the deceased Salim was serving as a driver of a vehicle of one Shri Sarjerao Patil, serving with Crime Detection Branch, Bhiwandi. It is further his case that a crime was registered against one Saquib Nachan. The Petitioners herein were pressurising deceased Salim to name others in the crime only with a view to save Saquib Nachan. They also threatened the deceased of implicating him in the crime, if he did not listen to act in accordance with their wish. The deceased was, therefore, under tremendous

psychological pressure. It was exerted by the Petitioners. The deceased, therefore, committed suicide by setting himself ablaze at Detection Branch, Bhiwandi, on 22 November 2012. He succumbed to the burn injuries.

5. The record indicates that Assistant Commissioner of Police (ACP), East Division, Bhiwandi, was entrusted with the investigation of the crime. On completion of the investigation, he submitted "B" Summary Report. Learned J.M.F.C., Bhiwandi, partly accepted the report. He then committed the case to the Court of Sessions, after taking cognizance of the offence. The learned Assistant Sessions Judge rejected the application for discharge. It appears that, pending these petitions, charge was even framed.

6. Learned APP and learned Advocate for the Petitioners would submit that, except the FIR, there is no material against any of the Petitioners to connect them with the alleged offence. According to both of them, no offence did take place. The deceased committed suicide. The deceased made a dying declaration. The widow of the deceased also gave statement suggesting the deceased to have committed suicide for some other reason. This Court was taken through the statements of relevant witnesses to urge for allowing of the writ petitions.

7. Learned Advocate for Respondent No.2/father of the deceased/Informant, would, on the other hand, support the impugned order.

8. Considered the submission advanced. Perused all the police papers. Admittedly, on investigation of the crime, "B" Summary Report was filed. Learned J.M.F.C. partly allowed the same. He took cognizance of the offence against the Petitioners herein and, therefore, committed the case to the Court of Sessions. The learned Assistant Sessions Judge refused to grant discharge.

9. It is true that the deceased Salim set himself ablaze in the Crime Branch, Bhiwandi. His dying declaration, recorded by Executive Magistrate on 24 November 2012, is on record. As per the statement of the deceased, he had a quarrel with his friend. He was, therefore, disturbed. He, therefore, douse himself with kerosene and set ablaze.

Then there is statement of one Neeta Patil, an eye-witness. She was Police Naik attached with Crime Branch, Bhiwandi. It is in her statement that, on 22 November 2012, she heard some cries emanating from the staircase side of her office. She saw the deceased engulfed in fire. She attempted to extinguish the fire. Police Constable Ajit Patil extinguished fire with water. The deceased told

her that he committed suicide, as he was under fear of arrest. On the same lines, there are statements of others, namely, Papa, Alias Imtiaj Ahmed, Vikas Shirsat, etc.

10. The widow of the deceased also gave her statement. According to her, on the previous day of the incident, the deceased came home late evening. He was under tension. On enquiry, he told her that he had quarrel with Sharif.

11. In short, except the allegations in the FIR, there is nothing to indicate anything incriminating against the Petitioners herein. The Informant is none other than the father of the deceased. He is not an eye-witness of the incident. The dying declaration made by the deceased overrides allegations in the FIR. The statement of the widow of the deceased, besides other eye-witnesses, indicate the deceased to have committed suicide for the reason best known to him. There is, prima facie, nothing to suggest the Petitioners to have abetted or behaved with the deceased in such a way so as to drive him to commit suicide.

12. Upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the Petitioners and the prosecution in this behalf, in the facts and circumstances of the case, there is no sufficient ground for proceeding

against the Petitioners. The Petitioners stand discharged of Sessions Case No.296 of 2014.

13. Writ petitions stand disposed of.

(R.G. AVACHAT, J.)