

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3559 OF 2019

Lilaram Sundarlal Sindhi

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Raju D. Suryawanshi, for the Petitioner.

Smt. A. S. Pai, GP a/w Smt. M. H. Mhatre, APP for the Respondent/
State.

Mr. Dilip Sawant, PSI, Bandra Police Station – present.

**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.**

DATE : 13th JUNE, 2023

PC.

1. Heard.

2. The petitioner is seeking quashing of the FIR being Crime No.515 of 2017 punishable under Sections 306, 506(2), 34 of the IPC.

3. The case of the prosecution is, Nasim in her complaint, alleges that petitioner was one of the investor in the firm of deceased Navroz. It is claimed that deceased Navroz committed suicide and in the suicide note cause of same is stated to be financial hardship.

4. It appears that based on the aforesaid suicide note after the offence was registered, till this date petitioner is not charge-sheeted, whereas co-accused Shahnawaz came to be charge-sheeted who is informed to have been discharged in the month of January, 2023 by the Court below.

5. In this background, the submissions of counsel for the petitioner are, the petitioner is an advocate by profession and is not in the business of money lending. According to him, even if the allegations made in the FIR are considered for the sake of arguments to be true, still the necessary ingredients of offence punishable under Section 306 of the IPC cannot be inferred. He would urge that the notice issued under Section 41A of the CrPC speaks of the petitioner being called for the investigation and inquiry way back in 2019. He being not charge-sheeted for last more than four years sufficiently establishes the fact that there is no evidence to infer his involvement in the crime in question.

6. Learned APP while assisting the Court submits that name of the petitioner is very much mentioned in the FIR as one of the person who was demanding money from the deceased. It is further mentioned that petitioner who has driven the deceased to commit the suicide for non-fulfilment of demand of money made to the petitioner.

7. We have appreciated the submissions.

8. In the FIR, it is specifically mentioned that the petitioner regularly used to demand money from the deceased and such demand was made between December, 2015 to January, 2016. It is also mentioned at times, the petitioner has issued violent threats to the deceased.

9. From the narrations in the FIR and other material on record, it is an undisputed fact that the deceased was financially indebted to number of persons. Deceased had also taken hand-loan from the Petitioner with the assurance to repay and such assurance appears to be not honoured in spite of there being repeated demands and requests from the Petitioner. Demanding amount from the person like deceased who had admittedly taken hand-loan cannot be termed as an offence. However, what is objected is, mode and manner of demanding such amount. Admittedly, suicide note has not named the Petitioner as person who has caused substantial mental torture to the deceased in the matter of repayment of the hand-loan, as specifically mentioned in the suicide note. In the aforesaid backdrop, it cannot be said that the act of the Petitioner of asking the deceased to repay his own amount which is admittedly due has formed a situation which has driven the deceased to commit suicide and the Petitioner has abetted such suicide. Rather the prosecution has unable to demonstrate that suicide committed by the deceased was a fact known to the Petitioner and cause of such suicide was the demand made by the Petitioner for repayment of the hand-loan taken by the deceased.

10. As such, satisfaction of necessary ingredients for inferring offence punishable under Section 306 of the IPC cannot be noticed from the material collected during investigation.

11. Apart from above, the Court below has already discharged the co-accused Shahnawaz against whom gravity of attribution is more serious than that of the present Petitioner. That being so, in our opinion, case for quashing is made out. As such, prosecution initiated against the Petitioner is hereby quashed.

12. The petition is accordingly allowed in terms of prayer clause (a).

[SHARMILA U. DESHMUKH, J.]

[NITIN W. SAMBRE, J.]