

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 101/2023

Vishal Kisangopal Purohit,
Age about 37 yrs., Occ. Business,
R/o. Ram Nagar, Amankhan Plot,
behind LRT College, Tal. & Dist. Akola.

.....**APPLICANT.**

VERSUS

1. State of Maharashtra,
through PSO of PS Old city, Akola,
Tal. & Dist. Akola.
2. Harshal Omprakash Sharma,
Age about 29 yrs., Occ. Service,
R/o. Hariharpeth, Old City,
Akola, Tal. & Dist. Akola.

..... **NON-APPLICANTS**

Mr. J. B. Gandhi, Advocate for applicant
Mr. V. A. Thakare, APP for non-applicant No.1.

CORAM : **VINAY JOSHI AND**
VALMIKI SA MENEZES JJ.

DATE : **10.07.2023**

JUDGMENT : (PER VINAY JOSHI, J.)

Heard.

2. **Admit.**

3. This is an application seeking to quash First Information

Report vide Crime No. 803/2021 registered with Police Station Old City Akola, Dist. Akola for the offence punishable under Sections 306 read with Section 34 of the Indian Penal Code along with related charge-sheet No. 138/2022.

4. It is prosecution case in nutshell that the applicant along with two co-accused has abetted deceased to commit suicide and therefore, the offence punishable under Section 306 read with Section 34 of the Indian Penal Code is registered. The deceased has left suicidal note which forms part of charge-sheet.

5. It is applicant's contention that suicidal note merely bears his vague reference. The material collected does not constitute the offence of abetment within the meaning of Section 107 of the Indian Penal Code. The learned counsel for the applicant would submit that both co-accused namely Yogesh Agrawal and Sushil Dandale had approached this Court in Criminal Application (APL) Nos. 856/2021 with 1025/2021 seeking to quash FIR. This Court has considered the law laid down by the Supreme Court in various decisions and on factual scrutiny, came to the conclusion that no prima facie case is made out thus, FIR was quashed about remaining co-accused.

6. The allegations levelled against applicant are exactly the same as well as the suicide note makes similar reference of applicant like co-accused. The charge-sheet does not make out any distinguishing role

of the applicant. This Court elaborately considered the allegations and suicidal note in para 15 and 17 of the decision which reads as below:-

“15. In the present case, the material available on record shows that the deceased initially was having partnership with co-accused Vishal Purohit in the catering business and the applicant-Sushil Dandale was Manager in the said partnership and was acting on behalf of Vishal Purohit. There are allegations that the applicants, on behalf of the co-accused – Vishal Purohit, used to demand outstanding dues from the deceased and also used to threaten that he will kill the deceased by shooting him. It is a matter of record, as seen from the case of the prosecution, that the said partnership came to an end two months prior to the incident of suicide and thereafter a new partnership enterprise was started by the deceased with applicant - Yogesh Agrawal. It appears from the charge-sheet that in the said joint venture also, there were disputes on the financial aspect and the deceased had to pay some amount to Yogesh Agrawal. It is alleged that a month prior to the alleged incident, the deceased was beaten by Yogesh Agrwal. Now, the prosecution has come up with the case that just because of harassment given by these applicants and co-accused - Vishal Purohit, the deceased committed suicide by hanging from ceiling fan at his house.

17. This also takes us to the suicide-note left by the deceased. We have analysed the contents of the suicide-note left by the deceased. It also refers to Corona pandemic as one of the reason for taking the extreme step. Thus, it appears that the deceased was financially unstable due to Corona pandemic situation. After taking into

consideration the surrounding circumstances and the fact of pandemic situation, which affected everybody in one way or another, we are of the view that the deceased committed suicide out of frustration, emerged due to the situation and circumstances created by the pandemic. We do not find prima facie material that the demands, which have been allegedly made by the applicants, with intention of driving the deceased to commit suicide. There is no material to show that the demands were unworthy or unreasonable. Stretching the things a bit far to reach a finding that accused intentionally acted in such a manner to drive the deceased to commit suicide, will not be justified. Thus even if the facts are taken at their face value, they do not prima facie constitute any offence.”

7. In absence of specific material against the applicant, this is a fit case to exercise our inherent jurisdiction. In view of law laid down in case of **State of Harayana Vs. Bhajan Lal [1992 Supp (1) SCC 335]**, application is allowed. We hereby quash and set aside First Information Report vide Crime No. 803/2021 registered with Police Station Old City Akola, Dist. Akola for the offence punishable under Sections 306 read with Section 34 of the Indian Penal Code along with related charge-sheet No. 138/2022.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

Gohane

JITENDRA BHARAT GOHANE

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