

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION [APL] No. 639 OF 2022.

1.Parag s/o Amrut Barate,
Age 45 years, Occupation Service,
resident of Jain Plastic Park,
Bhambori, Taluq and District
Jalgaon.

2.Bhagwat s/o Sadashiv Kumbhar,
Age 51 years, Occupation Service,
resident of Jain Plastic Park,
Bhambori, Taluq and District
Jalgaon.

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APPLICANTS.

VERSUS

1.The State of Maharashtra,
through Police Station Rajapeth,
Taluq and District Amravati.
[Copy served to Public Prosecutor
Bombay High Court Bench at Nagpur]

2.Rupali Pramod Jawanjal,
Age 31 years, Profession Nil,
resident of Nawathe Galli No.3,
Amravati City, Taluq and District
Amravati.

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NON-APPLICANTS.

Mr. A.S. Reddy, Advocate for Applicants.
Mr. N.R. Rode, A.P.P. for Non-applicant No. 1.
Non-applicant No.2 – Served.

CORAM : VINAY JOSHI AND

BHARAT P. DESHPANDE, JJ.

DATE : MARCH 14, 2023.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard finally by consent of the learned Counsel appearing for applicants and the learned A.P.P. for non-applicant no.1. Despite service, non-applicant no.2 has chosen not to appear.

Admit.

2. This is an application seeking to quash the first information report bearing Crime No.1216/2021 registered with Rajapeth Police Station, Amravati for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

3. On the basis of a report lodged by widow of deceased Pramod dated 30.09.2021, the aforesaid crime has been registered.

Rgd.

It is the case of the informant that on 11.09.2021, her husband committed suicide by way of hanging. The police found a suicide note containing names of applicants and some other writing. The informant has checked whatsapp messages of deceased in which she found communication of deceased with both applicants. Applicant – Kumbhare has charged the deceased for missing of one 7.5 HP Drive and applicant – Barate has refused to accept the request for transfer, and therefore, the informant has lodged a report alleging that both of them abetted the deceased to commit suicide.

4. Applicant no.1 was service as a Manager, while applicant no.2 is the Executive Officer of Jain Irrigation Systems Limited Company. The deceased was also working in the same company as a Driver. As per informants case, both applicants being superior officers have harassed the deceased which left him with no other alternative but, to commit suicide. Reading of the first information report discloses that there are two allegations – firstly names of applicant are mentioned in the suicidal note and secondly, there are two whatsapp messages with the deceased, by each one of them.

Rgd.

5. Perusal of the suicidal note indicates that the deceased made certain writing on a plain paper. In first portion, he wrote names of three persons, including applicants. Rest of the portion is on page 2, and it relates to some other person. Mere mention of names in the note does not make any sense. The note nowhere alleges anything against applicants and therefore, by any stretch of imagination, it cannot be treated as an incriminating circumstance against applicants. The communication on whatsapp, as it reveals from the police papers that applicant Barate has charged cost of one missing 7.5 HP Drive, and sought recovery from the deceased. So far as applicant – Kumbhare is concerned, the deceased requested him for transfer, to which he merely replied as “No”. This is the only material which does not constitute anything to suggest that applicants have abetted or instigated the deceased to commit suicide.

6. The learned Counsel for applicants has relied on the decision of Supreme Court in case of **Vajnath Kondiba Khandke .vrs. State of Maharashtra and another** – [2018] 7 SCC 781, to contend that even if the superior officer has assigned some work, that does not construe an abetment to commit suicide. Reliance has also

Rgd.

been placed in the decision of Supreme Court in case of **Ramesh Kumar .vrs. State of Chhattisgarh – [2001] 9 SCC 618**, to contend that there must be a reasonable certainty to incite the consequence of the alleged act.

7. Reading of the suicidal note in its entirety would not suggest any nexus or proximity with the suicide. The note does not bear any date, nor any sort of allegations against applicants. Whatsapp messages appears to be a routine affair between co-employees. There may not be a justification for the superior officer to recover costs of missing articles, however, communication to that effect does not amount to abetement to commit suicide. Likewise denial of transfer by the superior officer, by no stretch of imagination can assume a character of instigation with adequate mensria.

8. The material collected during the course of investigation, even if accepted at its face value, it falls short to make out the alleged offence. Continuation of such prosecution would amount to an abuse of the process of Court. In order to secure the ends of justice, we deem it proper to invoke our inherent jurisdiction vested

Rgd.

under Section 482 of the Code of Criminal Procedure. Criminal Application is accordingly allowed and disposed of.

9. The first information report bearing Crime No.1216/2021 registered with Rajapeth Police Station, Amravati for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code is hereby quashed and set aside.

10. Pending misc. applications if any, also stands disposed of.

JUDGE

JUDGE