

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

CRIMINAL APPLICATION NO.941 OF 2019

Vardhraj s/o Balraj Pilley, Aged 56 yrs,
Occup – Business, R/o Behind Kanhan
Police Station, Kanhan, Distt. Nagpur.

... APPLICANT.

VERSUS

1. The State of Maharashtra, through
PSO, Jaripatka, Dist. Nagpur.
2. Smt. Pranita wd/o Sanjay Patil, aged
46 yrs, Occ.- Household, r/o Behind
Sadhu Mohalla, Nagsen School,
Indora, Nagpur.

... NON-APPLICANTS

Shri Lubesh Meshram, Advocate for the applicant.
Shri Thakre, A.P.P for the non-applicant/State.
Shri D.C. Chahande, Advocate for non-applicant no.2.

CORAM : VINAY JOSHI AND BHARAT P. DESHPANDE, JJ.
DATED : 17/03/2023.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **ADMIT.**

2. Heard finally by consent of learned Counsel appearing for the respective parties.

3. This is an application seeking to quash the First Information Report(FIR) in Crime No.1011 of 2019 registered with the Jaripatka Police Station, Nagpur City for the offence punishable under Sections 306 read with 34 of the Indian Penal Code.

4. The wife of the deceased has lodged the report on 04.08.2019 on the basis of which the crime has been registered. It is her case that on 30.07.2019, her husband Sanjay Patil committed suicide by way of hanging. She stated that her husband (deceased) has given his truck on hire basis to one Roshan Ali however the latter was avoiding to pay hire charges on regular basis. The informant stated that her husband had also conveyed her that Roshan Ali (co-accused) has denied to pay hire charges. She alleged that all the accused have mentally harassed her husband. Moreover, she referred a suicide note naming applicant.

5. Though the crime was registered on 04.08.2019, the Police have not filed the charge-sheet till date. It is made clear that there is no interim order of this Court. It is the applicant's case that he has

absolutely no concern with the suicidal death of Sanjay Patil however he has been falsely implicated in the case. Learned Counsel for the applicant took us through the averments of the FIR as well as suicidal note to impress that even if the prosecution case is accepted at its face value, it does not make out the offence of abetment to commit suicide.

6. FIR bears the contents of suicide note from which it reveals that the hire transaction was with co-accused namely Roshan Ali. There is a single line statement without referring the names that all accused have mentally harass the deceased. We are falling short to perceive anything from such a statement. We have gone through the suicide note which reiterates the transaction between the deceased and Roshan Ali. The entire suicide note bears reference without context as "Pille 9607892222". Though there is some writing about the amounts but it does not connect with the reference of the applicant Pille. Absolutely, suicide note does not help us to lead any conclusion. We have gone through the police statements, which are almost on the basis of hearsay information received from the wife of the deceased. By and large, it emerges that transaction was in between the deceased and co-accused Roshan Ali. There are no specific averments against the applicant attributing his role to construe it as an instigation to commit suicide. There shall be nexus or live link between the act and resultant suicide.

Moreover, it requires to establish the *mens rea* on the part of the applicant. Even if, the prosecution case is accepted as it stands, it fails short to make out essential ingredients of the offence punishable under Section 306 of the Indian Penal Code. The case squarely falls in guideline no.(1) and (3) laid down by the Supreme Court in case of ***State of Haryana vs. Bhajan Lal AIR 1992 SC 604.***

7. In view of above, continuation of prosecution amounts to abuse of the process of Court. No fruitful purpose would be served in keeping the matter alive. In the circumstances, the applicant has made out a case for quashing of First Information Report to his extent.

8. The criminal application is allowed. We hereby quashed and set aside the First Information Report(FIR) in Crime No.1011 of 2019 registered with the Jaripatka Police Station, Nagpur City for the offence punishable under Sections 306 read with 34 of the Indian Penal Code to the extent of the applicant Vardhraj s/o Balraj Pilley only.

9. Pending interim application, if any, also stands disposed of.