



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 163 OF 2022

Ratnakar S/o Shyamrao Taru,
Age : 43 years, Occu. : Agril.,
R/o At Post Bhimnagar, Mudhed,
Tq. Mudkhed, Dist. Nanded. .. Applicant

Versus

1. The State of Maharashtra,
Through Mudkhed Police Station,
Dist. Nanded.
2. Kailas S/o Jalba Gadhe,
Age : 40 Years, Occu. : Agril.,
R/o At Post Daregaon,
Tq. Mudkhed, Dist. Nanded. .. Respondents

Shri Dhananjay M. Shinde, Advocate for the Applicant.
Shri Amar V. Lavate, A.P.P. for the Respondent No. 1.
Ms. Ashwini A. Lomte, Advocate for the Respondent No. 2
(Appointed).

**WITH
CRIMINAL APPLICATION NO. 1653 OF 2022**

1. Shankar Gangaram Edake,
Age : 55 years, Occu. : Agril.,
R/o Daregaon, Tq. Mudkhed,
Dist. Nanded.
2. Lalitabai Shankar Edake,
Age : 50 Years, Occu. : Household,
R/o Daregaon, Tq. Mudkhed,
Dist. Nanded. .. Applicants

Versus

1. The State of Maharashtra,
Through Police Station Mudkhed,
Dist. Nanded.
2. Kailas S/o Jalba Gadhe,
Age : 40 Years, Occu. : Agril.,
R/o R/o Daregaon, Tq. Mudkhed,
Dist. Nanded. .. Respondents

Shri Vitthal P. Kadam, Advocate for the Applicants.
Shri Amar V. Lavate, A.P.P. for the Respondent No. 1.
Ms. Ashwini A. Lomte, Advocate for the Respondent No. 2
(Appointed).

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 01 APRIL 2024.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally at the admission stage. Both matters are heard finally as the applicants are seeking quashment of self same FIR and consequential proceedings.

2. Applicants are seeking quashment of FIR bearing CR No. 205/2021 of Mudkhed Police Station, Dist. Nanded and consequential charge sheet filed in Sessions Case No. 69 of 2022 pending before the Additional Sessions Judge, Nanded, Dist. Nanded. Both the applicants are facing prosecution for the offence punishable U/Sec. 306 r/w Se. 34 of the Indian Penal Code (for short "I. P. Code").

3. A report was lodged by the respondent No. 2/Kailas on 19.11.2021 stating that his brother Ramkishan Jalba Gadhe

committed suicide on 19.11.2021 in the morning. It is alleged that deceased and applicant/Shankar Gangaram Edake had agreed that Ramkisan would supply water to the sugar cane of Shankar, which was in land gut No. 298. In return Shankar was to pay him 25% of agricultural produce. Despite supplying water, Shankar and his wife refused to pay money as agreed between them. It is alleged that on 17.11.2021, when Ramkisan demanded money, Shankar and his wife threatened to file false case of atrocity against him. Thereafter, when the deceased Ramkisan had been to police station to lodge a report, applicants threatened the deceased and assaulted him for giving up his claim. It was informed by the deceased to the informant that he was assaulted and threatened by the accused persons instead of paying his dues. He was found to be devastated. On 19.11.2021 deceased was found to be hanging in the field.

4. Learned counsels for both the applicants would submit that there is no material against them for abatement to commit suicide. False allegations are made against them. They would submit that single incident of 17.11.2021 would not constitute abetment. The deceased committed suicide after two days from 17.11.2021, which shows that there was no proximity between the alleged overt act and suicide.

5. It is being submitted by the applicants that statement of witness Govind Babarao Gadhe does not refer to the assault dated 17.11.2021. Impugned FIR is counter blast to FIR bearing CR No. 204/2021 registered at the instance of applicant/Lalitabai

Shankar Edake on 17.11.2021. It is further submitted that no case can be made out for the offence U/Sec. 306 of the I. P. Code.

6. Learned Assistant Public Prosecutor and the learned counsel for the respondent No. 2 oppose the submissions of the applicants. Applicants have played incriminating role by consistently threatening and abusing the deceased when amount due was demanded by him. The case of abetment can be made out from the statement of Kavita, Jalba, Suresh and Maroti. According to them as deceased was demanding money, there was motive to eliminate him. Learned counsel for the respondent No. 2 would invite our attention to the non cognizable case No. 37/2021 registered on 17.11.2021 at the instance of deceased against the applicants. It is further submitted that applicant/Ratnakar is habitual offender.

7. We have considered rival submissions of the parties. Material collected during the course of investigation does indicate that there was some transaction between the deceased and Shankar for sharing of water in lieu of parting of agricultural proceeds. It also reveals that deceased was demanding his dues which were being dodged by Shankar and his wife. It further reveals that on 17.11.2021 there was confrontation between deceased and Shankar. Deceased reported the incident to the police, which was registered as non cognizable case No. 37/2021.

8. Simultaneously, it also transpires that all the applicants belong to the scheduled caste. On account of payment of charges

for supplying water, there was dispute between the deceased and Shankar. Shankar's wife Lalitabai lodged complaint which is registered as FIR bearing CR No. 2024/2021 against deceased for having committed offence U/Sec. 3(1)(4) and 3(2)(va) of the S.C. and S.T. (Prevention of Atrocities) Act and U/Sec. 504 and 506 of the I. P. Code on 17.11.2021.

9. Deceased was threatened for demanding his dues by Shankar and his wife on 17.11.2021. Thereafter on the same day all the applicants abused and assaulted him. He committed suicide on 19.11.2021. It reveals from the record that deceased was having father and two brothers to support him. Abetment was to give up the demand of dues. This itself would not constitute sufficient potential to lead deceased to commit suicide.

10. There is no material on record to show that the motive for the applicants was to eliminate the deceased. Controversy between deceased and applicant/Shankar was not of such a nature to trigger him to commit suicide. We do not find any material on record to infer that deceased had no alternative than to commit suicide. The dispute between the parties was going on since 12.11.2021.

11. In the wake of above factual matrix, we are guided by the ratio laid down by the Supreme Court in the matters of Madan Mohan Vs. State of Gujrat, reported in *AIR 2010 SCW 5101* and S.S. China Vs. Vijay Kumar reported in *2010(12) SCC 190*. We are of the considered view that it would be futile to proceed against

the applicants for the offence U/Sec. 306 r/w Sec. 34 of the I. P. Code. We, therefore, pass following order.

O R D E R

- (I) The criminal applications are allowed.
- (II) FIR bearing CR No. 205/2021 of Mudkhed Police Station, Dist. Nanded and consequential charge sheet filed in Sessions Case No. 69 of 2022 pending before the Additional Sessions Judge, Nanded, Dist. Nanded for the offence punishable U/Sec. 306 r/w Se. 34 of the Indian Penal Code are quashed and set aside to the extent of present applicants.
- (III) The criminal applications are disposed of.
- (IV) Ms. Lomte, learned advocate appointed by this Court would be quantified Rs. 5,000/- (Rs. Five thousands only).

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb / April 24