



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1300 OF 2023

1. Pandurang Bhausahab Kute,
Age : 40 years, Occu. : Agriculture,
R/o. Shendra, Tq. & Dist. Aurangabad.
2. Vandana Pandurang Kute,
Age : 39 years, Occu. : Housewife,
R/o. Shendra, Tq. & Dist. Aurangabad.
3. Baburao Dadarao Kachkure,
Age : 49 years, Occu. : Agriculture,
R/o. Shendra, Tq. & Dist. Aurangabad.
4. Laxmibai Baburao Kachkure,
Age : 43 years, Occu. : Housewife,
R/o. Shendra, Tq. & Dist. Aurangabad.
5. Dnyaneshwar Baburao Jadhav,
Age : 32 years, Occu. : Agriculture,
R/o. Malshendra, Tq. & Dist. Jalna.

... Applicants.
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through In Charge Officer,
Police Station Chikalthana,
Dist. Aurangabad.
2. Lankabai Bhausahab Kachkure,
Age : 35 years, Occu. : Agriculture
& Household,
R/o. Shendra, Tq. & Dist. Aurangabad

... Respondents.

...
Mr. Sudarshan J. Salunke, Advocate for Applicants.
Mr. N. R. Daima, APP for Respondent No.1 – State.
Mr. Manish P. Tripathi, Advocate for Respondent No.2.
...

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 12th AUGUST, 2024

ORDER (PER ABHAY S. WAGHWASE, J.) :

1. In this application, applicants herein are seeking exercise of powers under section 482 of the Code of Criminal Procedure (Cr.P.C.) for quashing of FIR vide Crime No.50 of 2023, dated 15.02.2023 registered with Chikalthana Police Station, Aurangabad for commission of offence under sections 306, 504, 506 r/w section 34 of Indian Penal Code (IPC).

2. Pleading innocence and false implication, learned counsel for applicants pointed out that, above crime has been registered on report lodged by wife of deceased Bhausahab, who allegedly hanged himself on 11.02.2023. It is pointed out that, report and FIR regarding occurrence of 11.02.2023 is lodged on 14.02.2023 i.e. after three days and hence apparently, it is delayed and afterthought FIR. It is pointed out that, deceased had hanged himself for the best reasons known to him. That, there is already a civil dispute. That, deceased had outraged the modesty of daughter of applicant nos.1 and 2 and report was accordingly booked by police. Therefore, out of fear, he might have committed suicide. It is pointed out that, allegations are levelled that only because of humiliation, insult and defamation, Bhausahab committed suicide. That, applicants are not at all concerned. Their roles are not defined. That, in

the entire charge-sheet, there is no evidence that applicants abetted or instigated the suicide. Learned counsel pointed out that, in fact on 21.01.2023 deceased and his companions had assaulted present applicant no.4 and said occurrence was reported at police station. Present FIR by respondent no.2 is a counterblast.

3. Further according to learned counsel, necessary ingredients for attracting offence of 306 of IPC are patently missing. That, there is also no material in support of commission of offence of 504 and 506 of IPC. According to learned counsel, with such material, it would be unjust to allow prosecution to be launched against applicants.

4. Above application is strongly opposed by both, learned counsel for informant - respondent no.2 as well as learned APP. The sum and substance of their argument is that, there are clear allegations that applicants subjected deceased Bhausahab to continuous harassment. That, they were regularly levelling false allegations and trying to implicate him in some or the other case. That, only because of the harassment and humiliation, Bhausahab took the extreme steps of hanging himself. That, there was no other reason except harassment by accused. That, sufficient material has been gathered by investigating machinery, and therefore, according to them, it is a fit case for trial and is not at all a case for quashment by exercising powers under section 482 of Cr.P.C.

5. Heard both sides. This court is called upon to quash FIR registered at Chikalthana Police Station for commission of offence under sections 306, 504, 506 r/w 34 of IPC. On going through the papers, it transpires that said report on the basis of which crime is registered, is at the instance of Lankabai, who is wife of deceased Bhausahab. Studied the FIR dated 14.02.2023. Substance of the FIR is that, there used to be continuous quarrel between informant's family and Pandurang Bhausahab Kute. There used to be quarrel on account of right to use the way. According to informant, in the backdrop of above quarrel, Pandurang and his wife Vandana lodged false report against her husband for outraging modesty of their daughter, namely Rohini. That, on such count Pandurang, Vandana, cousin brother Baburao, his wife Laxmibai and cousin of Vandana, namely Dnyaneshwar continuously taunted, thereby humiliating informant's husband and this was reported to informant by deceased husband and he expressed being continuously humiliated. That, her husband was harassed by deliberately lodging false complaint and was therefore under continuous pressure. She has alleged that, resultantly, on 11.02.2023 her husband hanged himself on a tree. That a suicide note was found and it was handed over to police. Hence, she lodged above report against present applicants.

6. On going through the papers, it transpires that on 30.12.2022 i.e. almost two to three months prior to suicide, report was lodged by daughter of applicant no.1 i.e. Rohini alleging outraging modesty by deceased Bhausahab and on the strength of which crime was registered against him for alleged occurrence dated 30.12.2022.

7. Suicide note is a part of charge-sheet. On going through the same, it is pertinent to note that, said suicide note is shown to be written on 30.12.2022, but here admittedly Bhausahab committed suicide on 11.02.2023.

8. It needs to be appreciated that report against applicants is lodged on 14.02.2023 i.e. after three days of suicide by Bhausahab. Statements of witnesses recorded by investigating machinery are apparently stereotype i.e. raising quarrel on account of use of way, insulting and lodging false complaint and deceased to be under pressure.

9. In order to attract the charge of section 306 of IPC, it is incumbent upon prosecution to establish incitement, instigation, aiding or abetment to commit suicide. Law to this extent has been fairly settled in series of cases. Scope of Sections 107 and 306 has been time and again decided by the Hon'ble Apex Court in the cases viz; **Ramesh Kumar v.**

State of Chhatisgarh reported in (2001) 9 SCC 618; *Sanju @ Sanjay Singh Sengar v. State of M.P.* reported in (2002) 5 SCC 371; *State of West Bengal v. Indrajit Kundu and others* reported in (2019) 10 SCC 188; *V. P. Singh etc. v. State of Punjab and others* reported in 2022 SCC Online SC 1999; and very recently in the case of *Kumar @ Shiva Kumar v. State of Karnataka* [Criminal Appeal No.1427 of 2011 decided by the Hon'ble Apex Court on 01.03.2024].

In above series of cases, it has been held and reiterated that accused persons should intend that deceased should end up his/her life. With that object in mind, if they deliberately create circumstances, which are of such nature, that deceased is left with no other alternative but to end up his/her life, only then charge of abetment to commit suicide can be said to be successfully brought home. Abetment is equally an essential factor to be proved by prosecution.

10. Keeping in sight the above legal requirements, here, on going through the papers, it is emerging that, there is no material to show that, in proximity to date of suicide dated 11.02.2023, there was any role attributable to present applicants. Informant wife though herself claims that, deceased was under pressure, there is FIR against him for outraging modesty. General allegations are levelled against applicants that they taunted, quarreled and humiliated deceased. Even such

allegations are not in proximity to date of suicide so as to hold them responsible for abetting or instigating the suicide.

11. Taking the nature of allegations in the FIR into consideration and when there is no material to show nexus between applicants and suicidal death either on 11.02.2023 or immediately prior to it, coupled with the fact that alleged suicide note being much prior to actual commission of suicide, it is a fit case to intervene to prevent abuse of process of law with such quality of evidence on record. There is no evidence for namesake regarding commission of offence under sections 504 and 506 of IPC. Consequently, applicants succeed and we accordingly proceed to pass following order :-

ORDER

(i) The criminal application stands allowed.

(ii) FIR No. 50 of 2023, dated 15.02.2023 registered with Chikalthana Police Station, Aurangabad for commission of offence under sections 306, 504, 506 r/w section 34 of Indian Penal Code and the consequential charge-sheet arising out of it vide RCC No. 1111 of 2023 pending on the file of Judicial Magistrate First Class, Aurangabad, are hereby quashed and set aside.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)