



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

23 CRIMINAL APPLICATION NO.1940 OF 2023

- 1 Bhagwan Shahaji Patil,
Age 29 yrs., Occ. Agri.,
R/o Hausri, Tq. Nilanga,
Dist. Latur.
- 2 Chandu @ Chandrakant Madhav Barmade,
Age 36 yrs., Occ. Agri.,
R/o as above.
- 3 Chandu @ Chandrakant Madhav Patil,
Age 37 yrs., Occ. Agri.,
R/o as above.
- 4 Pranav @ Husen Kandhar Kale,
Age 37 yrs., Occ. Service,
R/o Yedshi, Tq. & Dist. Osmanabad.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
Through Police Inspector,
Police Station, Killari,
Tq. Ausa, Dist. Latur.
- 2 Sudam Sitaram Sawant,
Age 65 yrs., Occ. Labour,
R/o Shivajinagar, Sanja Road,
Osmanabad, Tq. & Dist. Osmanabad.

... Respondents

...

Mr. S.S. Thombre, Advocate for applicants

Mrs. Priya R. Bharaswadkar, APP for respondent No.1

Mr. Sayali Tekale – Dadpe, Advocate (appointed) for respondent No.2

...

WITH

CRIMINAL WRIT PETITION NO.666 OF 2023

Ishwar Vasant Rao Gaikwad,
Age 43 yrs., Occ. Agri.,
R/o Gandhi Nagar, Nilanga,
Tq. Nilanga, Dist. Latur.

... **Petitioner**

... **Versus** ...

1 The State of Maharashtra

2 Sudam Sitaram Sawant,
Age 65 yrs., Occ. Labour,
R/o Shivajinagar, Sanja Road,
Osmanabad, Tq. & Dist. Osmanabad.

... **Respondents**

...

Mr. T.M. Venjane, Advocate for petitioner

Mrs. Priya R. Bharaswadkar, APP for respondent No.1

Mr. Sayali Tekale – Dadpe, Advocate (appointed) for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI &
R.W. JOSHI, JJ.

DATE : 18th NOVEMBER, 2024

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present Criminal Application as well as Criminal Writ Petition have been filed under Section 482 of the Code of Criminal Procedure, 1973. The applicants/petitioner are seeking quashment of Sessions Case No.25/2023 pending before Additional Sessions Judge-4, Latur for the offence punishable under Sections 306, 420, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 arising out of First Information Report vide Crime No.62/2022 dated 13.03.2022 registered with Killari Police Station, Tq. Ausa, Dist. Latur, and the proceedings in Regular Criminal Case No.128/2022 pending before learned Judicial Magistrate First Class, Ausa.

2 The First Information Report has been lodged by respondent No.2, who is brother of the deceased. The deceased was a Police Constable posted at Police Station, Killari, Tq. Ausa, Dist. Latur. It is stated in the First Information Report that deceased was attached to Kasar Sirsi Police Station from 2013 – 2018 and then got acquaintance with accused Dhanraj Suryawanshi through one Police Officer Mr. Kale. It is then stated in the First Information Report that the deceased has raised loan by mortgaging his plot at Omerga and that amount was given as hand loan to Dhanraj Suryawanshi. It is stated that the deceased was demanding repayment of the said amount,

but it was refused or denied or avoided. Deceased committed suicide on 13.03.2022 by leaving a suicide note, in which the names of about 12 persons and the family members of Dhanraj Suryawanshi have been noted. It was stated that the amount that was extended as hand loan to the tune of Rs.9,50,000/-. The suicide is by shooting himself. According to the informant, the accused persons had cheated the deceased and then harassed him to abet commission of suicide by him and prior to few days of the suicide the present applicants/petitioner and the co-accused had caused grievous hurt, simple hurt, criminal intimidation etc. with the common intention.

3 Heard learned Advocate Mr. S.S. Thombre for applicants in Criminal Application No.1940 of 2023, learned Advocate Mr. T.M. Venjane for petitioner in Criminal Writ Petition No.666 of 2023 and learned APP Mrs. Priya R. Bharaswadkar for respondent No.1 as well as learned appointed Advocate Ms. Sayali Tekale for respondent No.2, in both matters.

4 Learned Advocates representing applicants/petitioner in both matters submit that the ingredients of the offence with which the prosecution intends to proceed are not made out either on the face of First Information Report or taking into consideration the contents of the charge sheet on the face of record. Further, when some of the co-accused had filed Criminal

Application No.1755 of 2022, it was decided by the coordinate Bench of this Court on 17.04.2023, whereupon it was held that the acts do not amount to any offence though the facts are taken on the face of the record. Application of the main person i.e. Dhanraj Maruti Suryawanshi is allowed and therefore, the question of prosecution going ahead with the other accused will not arise.

5 Per contra, learned APP as well as learned Advocate appointed to represent the cause of respondent No.2 strongly opposed the application and writ petition and submit that there is sufficient evidence collected against the present applicants/petitioner. The incident of assault immediately prior to the suicide would show that there was instigation or the intention behind the act of the applicants/petitioner was to pressurize the deceased. When the role is attributed to each and every applicant/petitioner, the First Information Report as well as the entire proceedings need not be quashed and set aside.

6 The first and foremost fact to be noted is that when the coordinate Bench has made observations in respect of suicide note and taking into consideration the prosecution story, the loan was given to Dhanraj Suryawanshi and upon the demand for repayment it is stated that the other co-accused had abetted the commission of suicide, then in such situation all those observations in respect of suicide note, delay and the proximity

between the two events i.e. giving of the loan, which had taken place in 2017, but then the suicide is on 13.03.2022, then it cannot be stated that there was any intention on the part of the applicants/petitioner amounting to abetment to commit the suicide.

7 Deceased was police person and, therefore, it can be said that he had the basic knowledge about law or the legal implications of an act. He had not filed any suit for recovery of the amount. Another fact to be noted is that though he is a Government servant; yet, he says that by raising loan on his plot and also by mortgaging the gold ornaments of his wife he himself had taken loan and then given it to Dhanraj Suryawanshi. If it is so, then the possibility that he might have given the said amount by charging interest cannot be ruled out.

8 The charge sheet is filed, statements of witnesses have been recorded, but even the widow of the deceased, who is supposed to be the natural custodian of the documents, if at all they were in the house of the deceased; has not produced any document on record to show that such friendly loan was extended by the deceased to any one of the applicants/petitioner. When the nexus between two acts i.e. giving loan in 2017 and suicide in 2022 cannot be taken as a case of abetment, wherein the

applicants/petitioner can be asked to face the trial. At the cost of repetition, we would say that we are reiterating the paragraphs from the order of the coordinate Bench dated 17.04.2023 in respect of the offence under Section 306 read with Section 107 of the Indian Penal Code, Sections 420, 423, 504, 506 read with Section 34 of the Indian Penal Code.

9 With these observations, we proceed to pass the following order.

ORDER

- i) Criminal Application and Criminal Writ Petition are allowed.
- ii) Sessions Case No.25/2023 pending before Additional Sessions Judge-4, Latur for the offence punishable under Sections 306, 420, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 arising out of First Information Report vide Crime No.62/2022 dated 13.03.2022 registered with Killari Police Station, Tq. Ausa, Dist. Latur, and the proceedings in Regular Criminal Case No.128/2022 pending before learned Judicial Magistrate First Class, Ausa, Dist. Latur stands quashed and set aside as against applicants in Criminal Application No.1940 of 2023 and petitioner in Criminal Writ Petition No.666 of 2023.

iii) Fees of the appointed Advocate is quantified at Rs.7,000/- (Rupees Seven Thousand only) to be paid by High Court Legal Services Sub Committee, Aurangabad.

(R.W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

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