

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

1026 CRIMINAL APPLICATION NO. 2343 OF 2023

DILIP HARIBHAU CHOTHE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Shirsat Suhas R.

h/f. Mr. Santosh Jadhavar

APP for Respondent No. 1 : Mr. M.M. Nerlikar

Advocate for Respondent No. 2 : Ms. Shubhangi D. More

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 02 FEBRUARY 2024

PER COURT :

Heard both the sides finally.

2. Applicants are seeking quashment of Crime No. 152/2023 registered with Shivoor Police Station, District Aurangabad, for the offences punishable under Sections. 143, 304, 323, 427, 504 of the Indian Penal Code.

3. Having heard both the sides extensively, considering the nature of investigation and the material, we are not inclined to entertain the application in respect of the other offences in which the applicants are being charged except Section 304 of IPC.

4. Learned AGP has made available to us final cause of death certificate issued by the Autopsy Surgeon of the Department of Forensic Medicine, Government Medical College, Aurangabad, dated 13.10.2023 indicating therein, the cause of death of the deceased who was the brother of respondent no. 2 as coronary artery thrombosis.

5. Apart from the fact that the final cause of death is as certified by the Autopsy Surgeon, the papers of the investigation do not independently demonstrate about Investigating Officer having been able to ascertain, on the basis of some tangible material, any co-relation between the cause of death and the alleged assault carried out by the applicants. In the absence of the cause of death being attributable to any action on the part of applicants, in our considered view prosecution under Section 304 of the IPC cannot be allowed to be gone ahead with.

6. The application is partly allowed. The crime only to the extent of Section 304 of the IPC is quashed and set aside. The trial for the rest of the offences may go on.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]