



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

Criminal Application No. 2310 / 2020

1. Ravindra Mahadu Salunke alias Salunkhe
Age : 54 years, Occu. Professor,

2. Kavita Ravindra Salunke
Age : 48 years, Occu. Housewife,
Both R/o : Plot No.45, Bansilal Nagar
Nandurbar, Tq. And Dist. Nandurbar.

...Applicants

Versus

1. The State of Maharashtra
Through Police Inspector,
Nandurbar Upnagar Police Station,
Tq. And District Nandurbar.

2. Kaustubh Ravindra Chaudhari
Age : 22 years, Occu. Household,
R/o Plot No.42, Laxminagar, Korit Road,
Tq. And District Nandurbar.

...Respondents

WITH

Criminal Application No. 294 / 2021

Sunil Bhavlal @ Bhaulal Mahajan,
Age : 50 years, Occu. Business,
R/o : Plot No.10, Shahapur
Tq. And Dist. Burhanpura (MP).

...Applicant

Versus

1. The State of Maharashtra
Copy to be served on the Public Prosecutor,
High Court of Bombay bench at Aurangabad.

2. Kaustubh Ravindra Chaudhari
Age : 22 years, Occu. Household,
R/o Plot No.42, Laxminagar, Korit Road,
Tq. And District Nandurbar.

...Respondents

Criminal Writ Petition No. 1513 / 2020

Anil s/o Ranchod Chaudhari

Age : 55 years, Occu. Business,

R/o Plot No46, Laxmi Nagar,

Tq. And District Nandurbar.

...Petitioner

Versus

1. The State of Maharashtra

Copy to be served on the Public Prosecutor,
High Court of Bombay bench at Aurangabad.

2. Kaustubh Ravindra Chaudhari

Age : 22 years, Occu. Household,

R/o Plot No.42, Laxminagar, Korit Road,

Tq. And District Nandurbar.

...Respondents

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Criminal Application No. 2425 / 2020

Mukesh Fulchand Wadekar

Age : 57 years, Occu. Professor,

R/o Plot No.97, Shriram Nagar,

Tq. And District Nandurbar.

...Applicant

Versus

1. The State of Maharashtra

Through Police Inspector,
Nandurbar Upnagar Police Station,
Tq. And District Nandurbar.

2. Kaustubh Ravindra Chaudhari

Age : 22 years, Occu. Household,

R/o Plot No.42, Laxminagar, Korit Road,

Tq. And District Nandurbar.

...Respondents

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Advocate for Applicants in Cri. Application No.2310/2020 : Mr. N.S. Jaju h/f
Mr. V.D.Khivesara

Advocate for petitioner in Cri. Writ petition No.2425/2020 : Mr. N.S. Jaju h/f
Mr.P.P. Patni

Advocate for Applicant in Cri. Application No.294/2021 : Mr. N.S. Ghanekar

Advocate for petitioner in Cri. Writ petition No.1513/2020 : Mr. Rahul S. Pawar

Advocate for Petitioners in all petitions : Mr. Avinash A. Phad
APP for the Respondents/State in all matters : Mr. G.A. Kulkarni

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

DATE : 30 APRIL 2024

FINAL ORDER [Per Shailesh P. Brahme, J.] :

. Heard both the sides finally.

2. The applicant/petitioners are seeking quashment of F.I.R. bearing C.R. No.546/2020 registered with Nandurbar City Police Station, Dist. Nandurbar for offences under Sections 306, 406, 420, 506 read with 34 of the Indian Penal Code and consequential charge-sheet and R.C.C. No.114/2023 pending before the Judicial Magistrate First Class, Nandurbar. Applicants/petitioners are alleged to have abetted suicide of one Ravindra Shamrao Chaudhari.

3. Informant happens to be son of deceased Ravindra who was Principal in a college at Nandurbar. It is reported by the informant that in

the year 2013 to secure admission to his elder sister, the deceased is alleged to have given Rs.22,00,000/- to Mr. Navalkishor Shinde. Again in the year 2014 amount of Rs.20,00,000/- was given for the purpose of admission to three persons. Despite that neither admission could be made, nor was amount returned. The persons who were given money were introduced by one of the petitioners in the present matter i.e. Anil Chaudhari. In the year 2015, Anil is alleged to have borrowed Rs.15,00,000/- from the deceased. He avoided repayment. It is further alleged that in the last year, deceased had invested Rs.30,00,000/- in the business of applicant-Sunil Mahajan but same was not returned to him.

4. It is further alleged that the applicants and other persons dodged repayment of amounts to the deceased and his financial condition became precarious which him to borrow Rs.10,00,000/- from one of the applicants, Ravindra Salunke. He was unable to repay the amount and he subjected to insulting treatment. He was pressurized to issue cheque of Rs.10,00,000/- It is further alleged that deceased had invested Rs.50,00,000/- in the medical store at Nemas Hospital run by Mukesh Wadekar who also refused to return the money. In this manner, the accused persons deceived deceased which left him devastated. He ultimately resorted to suicide on 16.10.2022, leaving behind a suicide note.

5.(A) Learned Counsel for the applicant in Criminal Application

No.294/2021 Mr. Nilesh Ghanekar submits that no offence is made out for abetment or conspiracy to drive deceased to commit suicide. It is further submitted that the deceased could have resorted to civil proceeding to recover the money or could have approached police or the competent authority. There is no material to show that he was subjected to harassment. There is no direct or indirect material to show incitement. There is no positive action on the part of the accused proximate to the time of the occurrence which could have compelled the deceased to commit suicide. He would further submit that no intention can be gathered from the material collected during the investigation. It is further submitted that there are bank statements to show that applicants returned the amount of Rs.30,00,000/- to the deceased.

(B). Learned Counsel Mr. Rahul Pawar for the petitioner in Criminal Writ Petition No.1513/2020 adopts above submissions. Additionally, he submitted that the deceased himself created financial crunch. There are multiple transactions entered by the deceased with various persons. No offence can be made out under Section 306 or under Section 406, 420, 506 of IPC.

(C). Learned Counsel Mr. V.D. Khivsara, for the applicants in Criminal Application No.2310/2021 adopts above submissions. Additionally, it is submitted that cheque which was given by deceased was dishonored. It was in fact loss caused to him. It is vehemently submitted that his client

was not creditor of the deceased and no allegations of harassment and abetment can be made against him. Learned Counsel relies on judgment of **Hafeez Rahman Sheikh Vs. State of Maharashtra**, 2022 (2) Mh.L.J. (Cri.) 664.

(D). Learned Counsel Mr. Jaju in Criminal Writ Petition No.2425/2021 would submit that there is no material to indicate that amount of Rs.50,00,000/- was invested in the medical store at Nemas Hospital by the deceased. For want of material particulars, no case of either any incitement or harassment can be made out against him. He cited number of judgments in support of submissions.

6. Learned APP would vehemently oppose the submissions of the learned Counsels for the applicants/petitioners. He would submit that a suicide note is collected during the course of investigation and statements have been recorded which disclose involvement of the applicants/petitioners. He would submit that deceased was defrauded by the applicants who was required to face serious financial crunch. Due to the adamant attitude and dishonest conduct of the applicants/petitioners, the deceased was left with no alternative but to commit suicide. He would submit that if the matter is put to the trial, the prosecution would be in a position to bring home the guilt of the applicants. He relies on the judgment in the matter of **Didigam Bikshapathi and Another Vs. State of Andhra Pradesh**, (2008) 2 SCC 403.

7. We have considered rival submissions of the parties and have also gone through the papers of the investigation. FIR and the statements show that deceased entered into multiple transactions with the applicants and others at different point of time. He was an educated person working as a Principal and most of the transactions appear to be in cash without there being any record. It is very difficult to believe that an educated person would blindly lend money or invest cash amount for some business. We do not find any specific wilful act, incitement or conspiracy on the part of the applicants/petitioners which would come within ambit of abetment as contemplated under Section 107 of IPC. The dodging of the repayment or in case of applicant-Ravindra, insistance for the repayment would not be sufficient to constitute offence under Section 306. There is absence of positive action proximate to the time of suicide.

8. It reveals from record that there is no record to demonstrate that there was any intention for subjecting the deceased to allege harassment so as to drive him to commit suicide. Deceased was holding land at Shahpur, Taluka and District Burhanpur (State of Madhya Pradesh) which had once fetched Rs.42,00,000/- per year. The genesis of the prosecution of lending money in cash without maintaining record and investing huge amount in some business do not appeal to the reasons. There is no material to prima facie indicate that deceased had lend money to different persons and invested in business. We do not find any material on record to show that the harassment was of such magnitude so as to leave

deceased with no alternative but to commit suicide.

9. Learned Counsel Mr. Jaju referred to the judgment of the Division Bench in the matter of **Gulab Yohan Pandit Vs. State of Maharashtra**. We have considered paragraph no.12. We find merit in the submissions that mere fact that the applicants/petitioners are named in the suicidal note that cannot be a ground to fasten them with charge of abetment. We have also considered paragraph nos. 15 to 19 of the same judgment. We have also considered law laid down by the Supreme Court in the matter of M. Mohan Vs. State as well as judgment of the Division Bench in the matter of Hafiz (supra). It is laid down in paragraph no.23 that insistence for money by the accused on account of some dealing between the parties does not mean abetment of suicide. We propose to follow the judgment.

10. We have already recorded that it is difficult to conceive that deceased, being highly educated, could enter into huge monetary transaction without keeping any record. There is nothing on record to show entrustment of money to applicants/petitioners. Neither, is there any material to show that he was induced to part with money. On the contrary, he was found to have issued a cheque of Rs.10 Lakhs to one of the applicants/accused. We have no hesitation to hold that allegation of criminal breach of trust, cheating and criminal intimidation are improbable. The offences under Sections 406, 420 and 506 are liable to be quashed.

11. We are of the considered view that it would be abuse of process of law to proceed against the applicants/petitioners. The suicidal note mentioning the names of the applicants/petitioners would not be sufficient to drive them to face prosecution for offence under Section 306. The suicidal note lacks material particulars. Hence the judgment cited by the learned APP in the matter of Didigam Bikshapathi and Another (supra) are not applicable. The applicants/petitioners succeed to make out their case within parameters laid down by the Supreme Court in the matter of **State of Haryana Vs. Bhajan Lal and Others**, AIR 1992 SC 604. We, therefore, pass following order :

ORDER

- i. Criminal Application and Criminal Writ Petitions are allowed to the extent of applicants/petitioners.
- ii. Impugned FIR and consequential R.C.C. No.114/2023 are quashed and set aside to the extent of applicants/petitioners.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE