



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

CRIMINAL APPLICATION NO. 3457 OF 2023

Kiran S/o Magansingh Rajput  
Age : 36 years, Occ : Agriculture,  
R/o. Aaghur, Tq. Vaijapur,  
Dist. Aurangabad.

..APPLICANT

-VERSUS-

1. The State of Maharashtra,  
(Through Vaijapur Police Station,  
Aurangabad)
2. Balanath S/o Nivrutti Jore  
Age : 62 years, Occ : Retired,  
R/o Patil Galli, Tq. Vaijapur,  
Dist. Aurangabad.

..RESPONDENTS

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Advocate for the applicant : Mr. D.S. Ingale h/f Mr. Nilesh S. Ghanekar  
APP for Respondent- State : Mr. S.A. Gaikwad  
Advocate for Respondent No.2 : Mr. Shaikh Joyeb I.

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CORAM : SMT. VIBHA KANKANWADI AND  
ROHIT W. JOSHI, JJ.

DATED : 13<sup>th</sup> DECEMBER, 2024.

JUDGMENT (PER ROHIT W. JOSHI, J.) :

. The present criminal application is filed under Section 482 of the Code of Criminal Procedure, *inter alia* challenging First Information Report (FIR), being Crime No. 385 of 2023 registered with Vaijapur Police Station, District Aurangabad for the offences punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal

Code along with Sessions Case No. 72 of 2024 registered pursuant to the said FIR, which is pending before the learned Sessions Judge, Vaijapur. Respondent No. 2 is the informant. The applicant is accused No. 1.

2. Respondent No. 2 has lodged FIR against the present applicant along with one Padmabai Babasaheb Wani, accused No. 2 and Manisha Sachin Jore on 18.07.2023 in relation to suicidal death of his son deceased Pravin Jore on 04.01.2023. The contents of the FIR in a nutshell are that the elder son of the informant Sachin Jore expired due to ailment on 01.12.2022. He was electrical contractor. The younger son deceased Pravin had a shop of electrical goods at Yeola Naka. On the sad demise of his elder brother Sachin, deceased Pravin had been to his sister-in-law, wife of deceased Sachin namely Manisha Jore to inform her about said demise of her husband. However, she refused to come for the last rites of her husband and abused the deceased. He states in the FIR that on 02.01.2023 when Pravin came to the house after closing his shop, the family members could notice that he was very restless and under immense tension. On inquiry, he revealed that Kiran Rajput, the applicant herein, Padmabai Wani, the accused No. 2 had lent certain amount as loan to elder brother Sachin and although the entire loan amount was refunded, the said two ladies

were constantly exerting pressure upon him to refund the loan amount and had also threatened that if he does not repay the loan amount, the entire family would be eliminated. It is further stated that due to constant pressure by these two ladies, deceased Pravin had stated that he does not have desire to live. As regards his sister-in-law, wife of deceased Sachin, it is alleged that she was constantly in touch with accused No. 2 – Padmabai and used to exert pressure upon Pravin to refund the loan amount. Thereafter, on 04.01.2023 at about 04:50 pm, when he was at the electrical store, one Nilesh Jore informed him that deceased Pravin had committed suicide by hanging himself in a room on the second floor in the residential house. In light of above allegations, he lodged the FIR naming the present applicant, Padmabai accused No. 2 and his daughter-in-law Manisha as the persons who had abetted the suicide by exerting constant pressure for refund of loan amount which was already repaid.

3. The prosecution has conducted investigation in the matter and has filed final report, vide charge-sheet No. 108 of 2024 on 10.04.2024. Learned Magistrate has committed the case for trial to the learned Sessions Court and accordingly Sessions Case No. 72 of 2024 is registered against the applicant and accused No. 2 Padmabai. It will be pertinent to mention here that the Investigation Agency has stated that

there was no evidence against Manisha, the daughter-in-law of respondent No. 2, and therefore, charge-sheet is not filed against her and consequently, she is not party to the Sessions Case.

4. The postmortem report conducted confirms that the deceased had committed suicide by hanging himself. The reason for death is mentioned as 'death due to hanging'. It may also be stated that although the sad incident has occurred on 04.01.2023, the FIR is lodged on 18.07.2023.

5. The statements of respondent No. 2-the informant, his wife – mother of the deceased and Nilesh Jore have been recorded during the investigation. Their statements are in line with the contents of the FIR. The prosecution has also gathered that the present applicant had filed a case against Muktabai Jore, mother of deceased under Section 138 of the Negotiable Instruments Act, being Summons Criminal Case No. 431 of 2020. As per the contents of the said complaint, applicant No. 1 had advanced a sum of Rs. 2,00,000/- in cash to Muktabai in order to purchase a truck for the business of her son. Likewise, accused No. 2 Padmabai Wani has also filed a case under Section 138 of the Negotiable Instruments Act against deceased Sachin Jore, being Summons Criminal Case No. 436 of 2020 stating that amount of Rs. 1,50,000/- was advanced to him in cash and the cheque issued towards

refund of loan amount was dishonoured for want of sufficient funds. Apart from this one Mahesh Suresh Rajput has also filed a case under Section 138 of the Negotiable Instruments Act, being Summons Criminal Case No. 430 of 2020 against Mai (Manisha), wife of Sachin Jore, alleging that he had advanced a loan of Rs. 2,00,000/- to her for purchasing a truck and cheque issued towards refund of the loan amount had bounced. These criminal cases were filed in the year 2020. The mother and wife of deceased Sachin, elder brother of deceased Pravin are parties to that cases. As stated above, Sachin has expired on 01.12.2022 and Pravin the younger son has committed suicide on 04.01.2023.

6. It clearly transpires from the record that there were some financial transactions between applicant No. 1 and the other accused and the family of deceased Pravin Jore, who have committed suicide. The issue that falls for consideration is whether there is material sufficient enough to *prima facie* make out a case of abetment of suicide on account of reasons attributable to the present applicant and the other accused.

7. The allegation in the FIR against both the accused persons is that they had advanced certain amount of loan to Sachin, the elder son of the informant and although he had refunded the loan amount,

they were exerting undue pressure on deceased Pravin, the younger son of informant to repay the amount. In furtherance of this objective, they had also threatened that the entire family of Pravin would be eliminated, if the loan amount is not refunded. Apart from this, there are no other allegations against the applicant. The knowledge about alleged pressure tactics and intimidation are stated to be revealed by Pravin himself on 02.01.2023 i.e. two days before he committed suicide. The record also indicates that three cases against elder son- Sachin Jore, Muktabai Jore-wife of informant and Mai (Manisha Jore)-wife of Sachin Jore were instituted by accused Nos. 1 & 2 and one Mahesh Rajput. The said fact would indicate that the applicants and one Mahesh Rajput were claiming that certain amount of money was due and payable by the family members of informant to them and for that they had instituted a proceeding under Section 138 of the Negotiable Instruments Act. The issue to be considered is as to whether, ingredients of Section 306 of the IPC are made out even if we assume the contents of the FIR narrated above, the statements which are almost the same as contents of the FIR and other material on record, will make out ingredients of Sections 306 and 107 of the IPC.

8. Learned Advocate for the applicant has placed reliance upon judgment of the Hon'ble Supreme Court in the matter of

***Amalendu Pal Vs. West Bengal*** reported in **2010 1 SCC 707** to contend that ingredients of Section 306 of IPC are pertinently missing in the present case, and therefore, even if contents of FIR and other material are taken to be true and correct on their face value, offence under Sections 306 and 107 of IPC is not made out. The judgment of the Hon'ble Supreme Court arises out of a case which was finally decided on merits after conclusion of trial. However, there are guidelines in the judgment, which explain the essential ingredients of the offence of abetment to commit to suicide. The relevant observations of the Supreme Court are that there must be material to indicate direct or indirect act of incitement on the part of the accused to force commission of suicide. Mere allegations of harassment on the part of accused will not be enough to make out a case of abetment of suicide. The material must indicate active role played by the accused in order to instigate the act of suicide. *Mens rea* is an essential element of the offence. We may also refer to a recent judgment of the Hon'ble Supreme Court in the matter of ***Jaydeep Singh Pravinsinh Chavda vs State Of Gujarat*** in Special Leave Petition (Criminal) No. 7957 of 2024 decided on 10.12.2024. This is reported judgment and application for discharge filed in a matter under Section 306 of the IPC was rejected by the learned trial Court. Thereafter, the matter travelled from the High Court to the Hon'ble Supreme Court. The Hon'ble Supreme Court has

held that the prosecution must establish that the accused had contributed to the act of suicide by the accused, *mens rea* is an essential ingredient of the offence. It is held that mere harassment by the accused to the deceased will not be sufficient to establish *mens rea* for the offence of abetment of suicide in relation to this active or direct action by the accused leading to the act of suicide must be established and that unless this foundational requirement is established offence of abetment of suicide will not be made out. Referring to an earlier judgment in the matter of ***S. S. Chheena Vs. Vijay Kumar Mahajan***, the Hon'ble Supreme Court had expressed that abetment of suicide involves a mental process of instigating a person or intentionally aiding him to commit suicide, without such positive act the ingredients of offence will not be made out. This Court has recently in ***Criminal Application No.1067 of 2023, decided on 09.12.2024*** reiterated the aforesaid principles laid down by the Hon'ble Supreme Court.

9. Shri S. A. Gaikwad, learned APP representing the State and Shri Shaikh Joyeb, learned Advocate for respondent No. 2 have vehemently argued that the family of the deceased was in financial distress. The elder brother of the deceased has expired around a month before the date of incident and in such circumstances, the accused persons including the present applicant were exerting undue pressure

on the deceased for recovery of money, which according to the deceased was already repaid. They contend that this much material is sufficient to sustain the charge against the accused persons including the present applicant. They further urge that correctness or otherwise of the allegations should not be gone into at the present stage since the prayer is for quashing of prosecution without trial.

10. Having considered the material on record, particularly, the contents of FIR and statements of family members of deceased and upon hearing learned Advocates for the respective parties, we find that there is certainly material in order to indicate that the applicant was claiming that certain amount was due and payable to her from Muktabai Jore, mother of the deceased. Likewise, the second accused Padmabai Wani also prayed that certain amount was payable to her by Sachin Jore, pre-deceased brother of Pravin, who has committed suicide. This material indicates that certain amount was being claimed by the accused persons against family of deceased Pravin. He has allegedly informed about harassment meted out to him by the applicants to his family members on 02.01.2023. He has committed suicide on 04.01.2023 i.e. two days after he narrated these facts to his family. In these circumstances when we peruse the FIR and statements of family members of deceased, it is found that all that is stated is that

the accused persons were insisting as Sachin had not repaid the entire loan amount and they were pressurizing deceased Pravin to repay the loan amount. Deceased Pravin has allegedly stated to his family members that due to the demand of money allegedly outstanding and the threats given by the applicant to eliminate the entire family in the event of failure to repay the amount, he was under immense mental pressure and that he had no desire to live. Similar statements have been made by the family members under Section 161 of the Cr.PC.

11. We are afraid that these allegations even if taken on their face value will not indicate that the applicant was harassing deceased Pravin in order to recover the money allegedly due and payable to them. The allegations in the FIR and the statements are pertinently silent with respect to the nature and extent of harassment, so also the tentative period thereof. Most importantly the allegations only suggest pressure tactics adopted by the applicant for the purpose of recovery of money. These allegations fall grossly short of establishing the ingredients of Sections 107 and 306 of the IPC in as much as *mens rea* for forcing the deceased to end his life is not made out even if entire material is assumed to be true and correct on its face value. We are aware that the matter is yet to go to trial, however, for the present, even if the entire material gathered by prosecution is assumed to be

true, the charge under Section 306 of the IPC cannot be sustained. We are, therefore of the considered opinion that the FIR and criminal prosecution against the applicant deserves to be quashed since essential elements of the offence are not made out on the basis of material gathered by the prosecution.

12. It may be stated that the deceased has committed suicide on 04.01.2023 and the FIR is lodged on 18.07.2023 i.e. after a period of six and half months. It will also be pertinent to mention here that the Investigation Agency had tried to record statements of family members after the demise during the course of initial investigation when accidental death case was registered. However, the informant and his family members had not given their statements at that stage though there was opportunity. The record also indicates that on 17.06.2023 after repeated telephonic calls the informant and his family members had visited the Police Station for recording their statements, however, they left the Police Station without giving any statement to the police authorities. The FIR is lodged on 18.07.2023 i.e. after a period of one month from 17.06.2023.

13. It will be pertinent to mention here that the applicant, the accused No. 2 and one Mahesh Rajput had filed complaints under Section 138 of the Negotiable Instruments Act in the year 2000 itself

against Sachin Jore, Muktabai Jore and Manisha Jore, who are family members of the deceased, the fact that the amount was being claimed by the applicant was known to the family members. It is not as if the family members were not aware that the applicant was claiming that loans obtained from them were not repaid and were outstanding. In these circumstances, the statement in the FIR and other statements recorded under Section 161 that Pravin informed the family members about the amount allegedly outstanding and payable by his brother Sachin to the applicants does not inspire confidence. It is hard to believe that the family members were not aware about the alleged claim of the applicants. However, the version of the informant and other witnesses indicates that the family members came to know about the alleged monetary claim only on 02.01.2023. This again is required when applicant had adopted legal recourse in respect of amount advanced by her, it cannot infer that she was harassing/torturing deceased to be considered in the backdrop of the delay caused in lodging FIR as also not recording statements despite calls from police authorities. It will also be pertinent to mention here that the applicant had taken recourse to legal remedy with respect to the amount advanced by her. When the applicant was pursuing the legal recourse, it is difficult to infer that she was harassing or torturing the deceased with a view to force him to commit suicide.

14. In such circumstances, proceeding with prosecution against the applicant would amount to observing useless formality and forcing her to undergo the grind of facing a criminal trial which is completely unnecessary. Hence, we pass the following order:

**ORDER**

- (i) The application is allowed.
- (ii) FIR bearing Crime No. 385 of 2023 registered with Vaijapur Police Station, District Aurangabad on 18.07.2023 for the offences punishable under Sections 306, 504, 506 read with Section 34 of the IPC and Sessions Case No. 72 of 2024 pending on file of the learned Sessions Judge, Vaijapur, District Aurangabad, are hereby quashed against the present applicant/accused No. 1-Kiran Magansingh Rajput.

**[ROHIT W. JOSHI]**  
**JUDGE**

**[SMT. VIBHA KANKANWADI]**  
**JUDGE**

K.Komal/