

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1358 OF 2023

Vikas Pandey

.... Applicant

v/s.

The State of Maharashtra and anr.

.... Respondents

Mr. Ashish Dubey a/w. M.M. Mishra for the Applicant.

Ms. M.M. Deshmukh, APP for the State.

Mr. Shahnaaz Chougule for the Respondent No.2.

Mr. P.P. Deshmukh, API, Kalyan Police Station, present.

**CORAM: SMT. ANUJA PRABHUDESSAI AND
N.R. BORKAR, JJ.**

DATED : 29th JANUARY, 2024.

P. C. :-

. This is an Application under section 482 of Cr.P.C. filed by the aforesaid Applicant to quash C.R.No.1763/2023 registered at Kalyan Police Station, Dist. Thane for offence punishable under section 306 of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by the Respondent No.2. The facts narrated in the FIR indicate that the deceased – Aakash was working as a salesman at Geeta Furniture, Ghodbunder Road, Thane. He had not reported to work from 15/10/2023 because of Navratri festival. On 22/10/2023, the

deceased was with his friends celebrating Navratri festival. He returned home on 23/10/2023 at about 04:25 a.m. and informed the Respondent No.2 that he was going out and would return soon. Respondent No.2 tried to contact him, however, he did not receive her calls. Some time later, she heard her neighbours crying and later learnt that her husband – Aakash had come under a moving train.

3. The body was cremated on the same day after the post mortem. In the same evening, the sister of the deceased disclosed that she had received a Whatsapp message from the deceased stating that he was committing suicide because of the Applicant herein. Respondent No.2 claims that the deceased, who was the friend of the Applicant, was an alcoholic and he had borrowed money from the Applicant. She claims that she had returned money to the Applicant but does not know whether there was any other transaction between the Applicant and the deceased.

4. The statement of the brother of the deceased also indicates that the deceased was an alcoholic and a gambler and would constantly borrow money from others. He learnt that the deceased owed an amount of Rs.10,000 to Rs.15,000/- to the Applicant.

5. The material on record indicates that the deceased was an alcoholic and had borrowed money from the Applicant and several other persons. Apart from this, there is no other material to indicate that the Applicant had instigated the deceased to commit suicide. The FIR and the material on record even if accepted in entirety, do not disclose the essential ingredients of abetment within the meaning of Section 107 of the Indian Penal Code. In such circumstances, continuance of criminal proceedings will be a sheer abuse of process of law. Hence, in our considered view, this is a fit case to exercise discretion under section 482 of Cr.P.C. to prevent the abuse of process of law. Hence, the Application is allowed. FIR No.1763/2023 registered with Kalyan Police Station, Dist. Thane, stands quashed.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

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