



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.943 OF 2024

Sachin S/o Sharad Kalyani,
Age-43 years, Occu:Business,
R/o-Sadbhavna Nagar, AUSA Road,
Latur, District-Latur.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through the Police Inspector,
Gategaon Police Station (City),
Taluka and District-Latur,
- 2) Smt. Pornima Siddheshwar Santanashe,
Age-33 years, Occu:Household,
R/o-Sadbhavna Nagar, AUSA Road,
Latur, District-Latur.

...RESPONDENTS

...

Mr. Satyajeet S. Bora Advocate h/f. Mr. Kalyan V. Patil Advocate
for Applicant.

Mr. N.R. Dayama, A.P.P. for Respondent No.1.

Mr. E.S. Murge Advocate h/f. Mr. C.J. Sabnis Patil Advocate
for Respondent No.2.

...

WITH

CRIMINAL WRIT PETITION NO.154 OF 2024

Dr. Annasaheb S/o Gulabrao Birajdar,
Age-41 years, Occu:Doctor,
R/o-Adarsh Colony, Latur,
Taluka and District-Latur.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Investigating Officer,
Gategaon Police Station, Latur,
Taluka and District-Latur,
- 2) Poornima W/o Siddheshwar Santanshe,
Age-33 years, Occu:Household,
R/o-Sadhbhavna Nagar, Ausa Road,
Latur, Taluka and District-Latur.

...RESPONDENTS

...

Mr. Suraj V. Gundre Advocate for Petitioner.
Mr. N.R. Dayama, A.P.P. for Respondent No.1.
Mr. E.S. Murge Advocate h/f. Mr. C.J. Sabnis Patil Advocate
for Respondent No.2.

...

WITH**CRIMINAL WRIT PETITION NO.1444 OF 2024**

Pornima W/o Late Shidheshwar Santanshe,
Age-32 years, Occu:Housewife,
R/o-Sadhbhawana Nagar, Latur,
Taluka and District-Latur.

...PETITIONER**VERSUS**

- 1) Central Government of India,
Department of Home Ministry,
Through Central Agency Section
or Solicitor General or Additional
Solicitor General in High Court
of Judicature at Bombay.
- 2) Central Bureau of Investigation
CGO Complex, Near Jawaharlal
Nehru Stadium, New Delhi,
- 3) The State of Maharashtra, Through,
Home Secretary, Mantralaya, Mumbai,

- 4) Director General of Police, State Government of Maharashtra, Mumbai,
- 5) Superintendent of Police, Latur, District-Latur,
- 6) The Investigation Officer, Gategaon (Dnyandev Pralhad Sanap), Police Station, Latur, District-Latur,
- 7) Police Inspector from Shivajinagar, Police Station, Latur, District-Latur,
- 8) Dr. Annasaheb Gulabrao Birajdar, (Accused No. 1, in present Crime No.160/2023), Age-41 years, Occu: Doctor, R/o-Adarsh Colony, Latur, Taluka and District-Latur,
- 9) Sachin Sharad Kalyani, (Accused No.2 in Crime No.160/2023), Age-43 years, Occu:Business, R/o-Sadbhawna Nagar, AUSA Road, Latur, District-Latur,
- 10) Rahul Nalwade, Age-42 years, R/o-Peth – Chandeshwar, Latur – Nilanga Road, Taluka and District-Latur,
- 11) Jayraj Rangrao Nagthane, Age-45 years, Occu:Engineer National Highway, R/o-Sadbhawna Nagar, AUSA Road, Latur, District-Latur,
- 12) Ankush Nilkanth Birajdar, Age-43 years, Occu:Police Constable, R/o-Near to R.T.O. Office, Latur, District-Latur,

- 13) Komal Jayraj Naghane,
Age-36 years,
R/o-Sadhbhawana Nagar,
Latur, Taluka and District-Latur,
- 14) Sonali Rangrao Nagthane,
(Sonali Pravin Mahajan),
Age-35 years, Occu:Government Service,
R/o-Government Hospital, Latur,
District-Latur,
- 15) Varsha Chandrakant Bellale,
(Varsha Sanjaykumar Shete),
Age-38 yeas, Occu:Government
service (since retired),
R/o-Latur, District-Latur,
- 16) Raju Chanbasppa Mahajan,
Age-Major, Occu:Not Known,
R/o-C/o-Sonali Rangrao Nagthane,
(Sonali Pravin Mahajan),
Age-35 years, Occu:Government Service,
R/o-Government Hospital, Latur,
District-Latur.

...RESPONDENTS

...

Mr. E.S. Murge Advocate h/f. Mr. C.J. Sabnis Patil Advocate
for Petitioner.

Mr. N.R. Dayama, A.P.P. for Respondent No.6.

...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 13th AUGUST, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Criminal Writ Petition No.1444 of 2024 is filed by the

informant for directing re-investigation in the crime and other various prayers. It appears that the Petition was filed in July 2024 and the charge-sheet came to be filed on 25th September 2024. Thereafter no amendment has been sought on behalf of the petitioner. When the charge-sheet is filed, then the petitioner - informant could have knocked the doors of the learned Magistrate under Section 173(8) of the Code of Criminal Procedure. The petitioner may say that since the present Petition has been filed, she has not approached the learned Magistrate. Another fact which is to be noted is that respondent No.2 in Criminal Application No.943 of 2024 and Criminal Writ Petition No.154 of 2024 was served and she appeared through Advocate. When the matters were taken up on 2nd July 2025, the learned Advocate for respondent No.2 in Criminal Application No.943 of 2024, Criminal Writ Petition No.154 of 2024 and the petitioner in Criminal Writ Petition No.1444 of 2024 was absent. It was taken note of the fact that he is not the Advocate who regularly practices before this Court and therefore, this Court directed the issuance of notice to respondent No.2. Again the same Advocate appeared on 24th July 2025 and made submissions that even after the notice, he has instructions from respondent No.2 to continue his Vakalatnama. He assured this Court that he will

remain present on the given dates. However, today learned Advocate Mr. Murge holding for learned Advocate Mr. Sabnis Patil tried to seek accommodation on the ground that Mr. Sabnis Patil has gone before the another Court i.e. at Nagpur. Mr. Sabnis Patil Advocate could have appeared through Video Conferencing in the matter and could have made his submissions. Further, when he had given assurance of remaining present on the given dates, he cannot seek adjournment on some such ground that he would be busy before the another Court.

2. Under such circumstance, we dismiss Criminal Writ Petition No.1444 of 2024.

3. Criminal Application No.943 of 2024 and Criminal Writ Petition No.154 of 2024, are filed by the original accused, initially for quashment of the First Information Report (for short "the FIR") vide Crime No. 160 of 2023, registered with Gatgegaon Police Station, Latur, Taluka and District-Latur, on 11th November 2023, and later on, by way of amendment, for quashment of the proceedings in R.C.C. No.1519 of 2024, pending before the learned Judicial Magistrate First Class, Latur,

for the offence punishable under Sections 306 read with Section 34 of the Indian Penal Code.

4. Heard learned Advocate Mr. Bora holding for Mr. Kalyan Patil for applicant in Criminal Application No.943 of 2024, learned Advocate Mr. Gundre for the petitioner in Criminal Writ Petition No.154 of 2024 and learned APP Mr. Dayama for the State.

5. Learned Advocates for the applicant/petitioner have taken us through the entire charge-sheet and submitted that even if we take the contents of the FIR as it is as well as the contents of the suicide note and the entire charge-sheet, the ingredients of Section 306 of the Indian Penal Code will not get attracted. The FIR has been lodged by the widow of the deceased. Deceased Siddheshwar Santanshe was running a jewellery shop by name, Vishwa Jewellers, and it is stated that the applicant/petitioner had friendship with deceased since last about 5 to 7 years. There were financial transactions between them. According to the informant, her husband has committed suicide on 7th November 2023. Around 6.00 to 7.00 p.m., on 7th November 2023, when informant had tried to contact husband, he had not picked up

the phone. She had searched husband at various places and then along with her brother and others, they went near the agricultural land owned by the deceased in Akharwai Shiwar. They found that Siddheshwar has hanged himself to Mango tree. According to the informant, she had taken the mobile phone which was in the pocket of the shirt of her husband, in her possession and she checked the same after two days i.e. after the last rites were over and she found one chit kept in the mobile phone cover, wherein it was stated that the petitioner Annasaheb and applicant Sachin have taken amount of Rs.2,85,00,000/- and Rs.45,00,000/- respectively. He has no documentary evidence to show that they have taken the said amount but they are not returning the amount and they are harassing him and the said amount is not only belonging to him but also of his customers and friends and therefore, he had no option but to commit suicide. Learned Advocates submit that if the statements of the witnesses recorded by police under Section 161 of the Code of Criminal Procedure are considered, then it would show that huge amount was taken by deceased Siddheshwar from these persons and in favour of some persons he has issued the receipts and they have also given the documentary evidence and it therefore, shows that in fact

Siddheshwar has taken huge amount from all these persons and it appears that he could not repay them the amount. There is absolutely no evidence regarding the amount given to the applicant and petitioner. Therefore, there is no question of harassment by them. With this evidence, the applicant or the petitioner need not be asked to face the trial.

6. The learned APP strongly opposes the Application as well as the Petition and submits that though in the suicide chit that has been left by Siddheshwar it is stated that he has no documentary proof, yet why he would have unnecessarily involved the applicant and petitioner, is a question. Though from the statements of the witnesses it can be seen that deceased has collected the amount from them but in the said suicide note it is stated by him that by collecting those amounts, he had given it to the petitioner Annasaheb and applicant Sachin. Voluminous evidence has been collected and therefore, this cannot be taken as a fit case where this Court should exercise its powers under Section 482 of the Code of Criminal Procedure. Learned APP also points out that handwriting expert's opinion has been received and it is confirmed that the handwriting in the suicide note matches with the natural handwriting of the deceased.

7. Before proceeding to consider the factual aspects involved, we would like to have glance at the legal position. In order to prove abetment to commit suicide as contemplated under Section 306 of the Indian Penal Code, the prosecution will have to prove Section 107 of the Indian Penal Code. The law on this point has been summarized by the Hon'ble Apex Court in *Swamy Prahaladdas vs. State of M.P. & Anr.*, 1995 Supp. (3) SCC 438, *Mahendra Singh vs. State of M.P.*, 1995 Supp.(3) SCC 731, *Ramesh Kumar vs. State of Chhattisgarh* (2001) 9 SCC 618, *Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh*, 2002 Cri.L.J. 2796; *Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi)*, (2009) 16 SCC 605, *Madan Mohan Singh vs. State of Gujrat and another*, reported in (2010) 8 SCC 628; *S.S. Chheena vs. Vijay Kumar Mahajan* reported in 2010 All MR (Cri) 3298 (S.C.), *State of Kerala and others vs. S. Unnikrishnan Nair and others*, reported in AIR 2015 Supreme Court 3351.

8. In *M. Mohan vs. State, Represented by the Deputy Superintendent of Police*, (2011) 3 SCC 626, the Hon'ble Apex Court has observed that, abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a

thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. In order to convict a person under Section 306 of the Indian Penal Code there has to be a clear *mens rea* to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide. It has been further observed that when there is no proximate link between the suicide and the event when deceased was tortured on some pretext or other, then it does not amount to abetment.

9. Having considered this legal position, we will now turn to the factual aspects involved in the matter in order to consider, as to whether the contents of the charge-sheet would disclose the prima facie case for attracting the offence under Section 306 of the Indian Penal Code. Even before going to consider the facts for offence under Section 306 of the Indian Penal Code, we would like to make some observations in respect of Section 34 of the Indian Penal Code that has been invoked. In fact from the entire charge-sheet it is not coming on record as to when and in what manner the amount/amounts were given to the petitioner

Annasaheb and applicant Sachin. It could not have been simultaneously given. When the transactions with them, as alleged, are separate and even if for the sake of arguments it is accepted for a moment that there were certain acts which would amount to harassment to deceased Siddheshwar, yet those should be separate. There is no question of common intention involved. For proving an offence under Section 34 of the Indian Penal Code, there has to be a prior meeting of minds and the entire evidence that has been collected in the charge-sheet does not reflect such prior meeting of the minds between these two persons. Merely because the amount was due as alleged, from applicant Sachin and petitioner Annasaheb, separately, Section 34 of the Indian Penal Code cannot be invoked.

10. In the FIR, the widow has stated that there was friendship between deceased Siddheshwar, petitioner Annasaheb and applicant Sachin since last about 5 to 7 years and there were financial transactions between them. There is specific statement that her husband Siddheshwar used to take amount from the customers of his jewellery shop and friends and then he used to give it to petitioner Annasaheb and applicant Sachin. By this statement, whether she wanted to indicate that Siddheshwar

was doing money lending business. If it is so, then she has not explained as to whether Siddheshwar was having money lending license. Even if for the sake of arguments it is accepted that he has no evidence about giving the amounts to these two persons, the suicide note is totally silent as to when the amounts were given, whether it was at one time or it was periodical and whether then Siddheshwar had maintained any diary for that purpose and what was the mode of transaction i.e. whether it was by cash or any other mode. The suicide note also refers in the form of direction to the informant that she should take note of the bank record of Siddheshwar and she would be able to get the same. Now, the bank statements have been collected by the investigating officer, however, there are no such entries to support the statement in the suicide note. Another fact to be noted is that deceased Siddheshwar has accepted that he never told about the transactions to his wife. Then the question arises, as to how there are statements in the FIR regarding the friendship between these three persons and the financial transactions. If those statements were on the basis of suicide note, then it can be said that she got the knowledge of the same only after reading of the suicide note on 10th November 2023 and not prior to that.

11. The statements of the witnesses recorded are of two categories i.e. one category is of relatives and others are those persons from whom the deceased has taken the amounts. Statements of the relatives i.e. Balaji Potdar – brother of the informant, Mohanrao Potdar – father of the informant, Swatibai Mohanrao Potdar – mother of the informant, Shubham Mohanrao Potdar – another brother of the informant, are in fact copy-paste statements. They all have stated that there was friendship between the deceased and petitioner Annasaheb and applicant Sachin, about 5 to 7 years prior to the incident and they were having financial transactions with each other. Then rest is, as to how they had searched deceased Siddheshwar on the day of incident and then how the informant recovered the suicide note on 10th November 2023. It can be stated that they had no personal knowledge about the financial transactions. Kisanrao Santanshe – father-in-law of the informant, Giridhari Santanshe, brother-in-law of the informant, are the relatives of deceased Siddheshwar and their statements are on the same line, whereas witness Shaikh Firoj Anwar, Pathan Sameer are the persons who had helped the informant in the search of Siddheshwar on the day of incident. Statement of Ankush Birajdar, who is police

constable, would show that he is the childhood friend of Siddheshwar and he has given amounts to Siddheshwar from time to time. Even Siddheshwar has executed the receipts in his favour. He has produced all the documentary evidence which he is having, regarding advancement of the amounts to Siddheshwar. Similar are the statements of Jayaraj Nagthane, Satish Sangewad, Vishal Munde (police constable), Vanmala Shinde etc., which would show that all of them had either given cash or had given gold jewellery to Siddheshwar and in spite of promises given by Siddheshwar to them, they have not received the amount. At the most, we may take that from all these persons Siddheshwar had taken the amount but there is no evidence to show that he had given that amount to petitioner Annasaheb and applicant Sachin. Siddheshwar was not a lay man. He used to run a jewellery shop and therefore, presumed to have knowledge about, how the transactions are required to be entered into. If he was doing some illegal business, then he could not have insisted for the refund of the amount or repayment of the same.

12. As we have considered the legal position, in order to prove offence under Section 306 of the Indian Penal Code i.e.

abetment, the active role of the accused will have to be shown. Here use of the word 'harassment' (परेशान) will not be sufficient. In what manner that harassment was caused, whether there was any proximity between the acts alleged to have been done and the suicide, should have been shown even prima facie and therefore, with this kind of evidence, it would be an abuse of process of law if the applicant Sachin and petitioner Annasaheb are asked to face the trial. This is a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, we proceed to pass following order:-

ORDER

(I) The Writ Petition No.1444 of 2024 stands dismissed.

(II) Criminal Application No.943 of 2024 and Criminal Writ Petition No.154 of 2024 stand allowed.

(III) The proceeding in R.C.C. No.1519 of 2024, pending before the learned Judicial Magistrate First Class, Latur, for the offence punishable under

Sections 306 read with Section 34 of the Indian Penal Code, arising out of the First Information Report vide Crime No. 160 of 2023, registered with Gatgegaon Police Station, Latur, Taluka and District-Latur, on 11th November 2023, stands quashed and set aside as against applicant - Sachin S/o Sharad Kalyani in Criminal Application No.943 of 2024 and petitioner - Dr. Annasaheb S/o Gulabrao Birajdar in Criminal Writ Petition No.154 of 2024.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/AUG25