



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

36 CRIMINAL APPLICATION NO.944 OF 2024

- 1 Kisan Bhaurao Dongare,
Age 69 yrs., Occ. Business,
R/o Osmanabad Road, Tuljapur,
Tq. Tuljapur, Dist. Dharashiv (Osmanabad).
- 2 Gururaj Kisanrao Dongare,
Age 33 yrs., Occ. Business,
R/o Osmanabad Road, Tuljapur,
Tq. Tuljapur, Dist. Dharashiv (Osmanabad).
- 3 Nagesh Kisanrao Dongare,
Age 39 yrs., Occ. Business,
R/o Mangalwar Peth, Tuljapur,
Tq. Tuljapur, Dist. Dharashiv (Osmanabad).

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
- 2 Prasad Satish Kadam,
Age 31 yrs., Occ. Business,
R/o Bhagwati Vihar, Tuljapur,
Tq. Tuljapur, Dist. Dharashiv (Osmanabad).

... Respondents

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Mr. J.D. Mane, Advocate for applicants

Mr. V.K. Kotecha, APP for respondent No.1

Mr. B.I. Mahajan, Advocate for respondent No.2

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

DATE : 04th APRIL, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed initially for quashment of First Information Report vide Crime No.493/2023 dated 30.11.2023 registered with Police Station, Tuljapur, Tq. Tuljapur, Dist. Dharashiv and later on by way of amendment for quashing proceedings in charge sheet No.187/2024 dated 16.11.2024 i.e. Sessions Case No.8/2025 pending before learned Additional Sessions Judge, Osmanabad, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. J.D. Mane for applicants, learned APP Mr. V.K. Kotecha for respondent No.1 and learned Advocate Mr. B.I. Mahajan for respondent No.2.

3 Learned Advocate appearing for applicants has taken us through contents of First Information Report and charge sheet. Informant is the son of deceased Satish. Satish and applicant No.1 were employed in Maharashtra State Road Transport Corporation. They both had purchased two acres of land in 1989. Said land was situated on Naldurg road, Tuljapur. Later on

layout of the said land was got sanctioned and land was divided into 26 plots. As Satish was employed as S.T. Bus Conductor, he used to travel a lot and, therefore, applicant No.1 was looking after the transactions in respect of plots. He was not giving the amount which used to be in the share of Satish at one time, but used to give it in part. It is stated that applicant No.1 used to take disadvantage of the situation that Satish used to be outside and, therefore, deceased Satish used to be unhappy with applicant No.1. 25 plots out of 26 were sold and only one plot was remaining. Satish was insisting that remaining plot should also be sold out, as he was in need of money for his medicines and treatment. But applicant Nos.2 and 3, who are sons of applicant No.1, all of them were insisting that Satish as well as informant should give a statement in writing that all the plots have been sold with consent of Satish. Informant alleges that for that purpose Satish was harassed by applicants. Informant has given account of some incidents, wherein applicant No.2 had given him threat. When the informant told him that his father should not be harassed, then the deceased had expressed before the informant that because of the harassment his living has become impossible. Applicant No.1 had given a phone call around 6.00 p.m. when informant was proceeding from Tuljapur to Pune on 24.11.2023 stating that he should sign on the consent letter, otherwise applicant No.1 would not sell the plot. However, on 25.11.2023 informant's cousin brother informed that

Satish has been admitted to Vithai Hospital, Tuljapur under unconscious state as he has consumed excess sleeping pills. He never regained his unconsciousness but died around 3.00 p.m. on 29.11.2023.

4 Learned Advocate appearing for applicants submitted that if First Information Report is taken as it is, it does not attract the ingredients of Section 306 of the Indian Penal Code. In fact, two chits appears to have been recovered from the house of deceased. One is cryptic and another is in detail, but except the statement that present applicants would be responsible for his death, there is nothing. At no point of time, since 1989 when the process of selling the plots started, no grievance was raised in writing by deceased Satish. He had not filed any dispute or proceedings before any Court of Law stating that his due amount has not been paid. In short, when 25 plots out of 26 were sold and no complaint was ever made by deceased, it is hard to believe that for the last plot any dispute would have arisen. Contents of charge sheet would rather show that the persons who purchased the plots had given separate cheque in the name of deceased Satish. Witness Nagnath Butte states that he had purchased plot No.7 on 12.08.2016 for Rs.4,50,000/-. He had given two cheques; each for Rs.2,25,000/-. One in the name of applicant No.1 and another in the name of deceased Satish. Copy of sale deed reflects the same. Similar is the statement of one Salman

Nasir Patel for plot No.4 purchased on 24.09.2023, for which two cheques of Rs.7,50,000/- each were given to accused No.1 and Satish, whereas Dnyaneshwar Jadhav says that he purchased plot No.10 on 08.01.2003 for Rs.5,00,000/- and he had given two cheques of Rs.2,50,000/- each in the name of applicant No.1 and deceased Satish. There are statements of other witnesses also on the similar line. Learned Advocate for applicants further states that deceased was staying alone in the house, which was on the upper side and on the ground floor his nephew was residing. Statement of said nephew Anant Kadam would also show that till he had lastly seen deceased there was no problem at all. The other witnesses also state that deceased Satish Kadam used to remain present at the time of execution of sale deed and used to say that there is no complaint to him in respect of amount. In fact, deceased was addicted to liquor and other vices, which can be revealed from statement of witness Gunwant Bhange. He had stated that he, Satish Kadam and applicant No.1 reside in the same lane and, therefore, know each other since many years. He states that deceased and applicant No.1 are his friends. These three friends used to be together on many occasions and there were no quarrels between them on any point. He specifically states that Satish was suffering from blood pressure as well as diabetes and was addicted to liquor and gambling. He had raised loan due to his habit of gambling. Satish was complaining that he wants to open a spectacle

showroom for the informant at Pune and for which he wants amount. He has then stated that even the nephew has stopped giving him tiffin. As there was problem for sleep, he was taking sleeping pills. Satish had taken hand loan from this witness. This might be the reason for the suicide for the deceased. But by no stretch of imagination it can be stated that present applicants had abetted the commission of suicide of deceased Satish. He, therefore, prayed for quashment of First Information Report as well as proceedings.

5 Per contra, learned APP as well as learned Advocate for respondent No.2 strongly opposed the application. They submitted that the fact that the entire amount was not given to deceased Satish can be demonstrated only in the trial. Weightage will have to be given to suicide notes, though suicide notes were found from the spot and they have been sent for analysis. Statements of other witnesses would certainly show that deceased committed suicide and present applicants, who were insisting that he as well as informant should sign on the consent document, have laid to the suicide.

6 Before proceeding to assess the facts, we would like to take account of legal aspects involved in the matter as to what is required for even *prima facie* bringing the case under Section 306 of the Indian Penal Code and for that purpose we would like to rely on the decisions in **Dilip Ramrao**

Shirasao and others vs. State of Maharashtra and another [2016 ALL MR (Cri) 4328], **Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh** [2002 Cri.L.J. 2796], **Madan Mohan Singh vs. State of Gujrat and another** [(2010) 8 SCC 628], **S.S. Chheena vs. Vijay Kumar Mahajan** [2010 All MR (Cri) 3298 (S.C.)] and **R. Shashirekha vs. State of Karnataka and others** [2025 INSC 402]. Taking into consideration the ratio laid down in all these authorities and the fact in present case, definitely, ingredients of any of the offences under which charge sheet is filed are not at all attracted. Further, it has been observed in one of the recent Judgments in **Mahendra Awase vs. The State of Madhya Pradesh** [2025 INSC 76] that merely for the satisfaction of informant Investigating Officer should not file charge sheet against accused, arrayed in offence under Section 306 of the Indian Penal Code. In **Amalendu Pal @ Jhantu vs. State of West Bengal** [(2010) 1 SCC 707] similar view that of **M. Mohan** (supra) is taken, wherein it was held that -

“In a case of abetment of suicide, there must be proof of direct or indirect act(s) of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the deceased to commit suicide, conviction in terms of Section 306 of the Indian Penal Code would not be sustainable.”

6.1 In **R. Shashirekha** (supra) in paragraph No.13 the Hon'ble Supreme Court has observed that -

13. Assuming that the allegations are true, even otherwise, the case under Section 306 of IPC would not be made out. Recently, this Court in a case of **Prakash and others vs. State of Maharashtra and another** [2024 SCC OnLine SC 3835] in which one of us (Gavai, J.) was a Member has considered all the earlier judgments with regard to Section 306 of IPC. After referring to the earlier judgments, this Court has observed thus :

“31. In the case of **Sanju @ Sanjay Singh Sengar** (supra), this Court, under similar circumstances, had quashed the chargesheet under Section 306 of the IPC against the accused- appellant. A factor that had weighed with the Court in the said case was that there was a time gap of 48 hours being the alleged instigation and the commission of suicide. This Court held that the deceased was a victim of his own conduct, unconnected with the quarrel that had ensued between him and the appellant, 48 hours prior to the commission of his suicide.

32. In the case at hand, taking the allegations in the FIR at face value, the incident at the mahalokadalat had occurred on 17th February 2015, while the deceased had committed suicide on 20th March 2015. There is a clear gap of over a month between the incident at the mahalokadalat and the commission of suicide. We therefore find that the courts below have erroneously accepted the prosecution story that the act of suicide by the deceased was a direct result of the words uttered by the appellants at the mahalokadalat.

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34. The cardinal principle of the subject-matter at hand is that there must be a close proximity between the positive act of instigation by the accused person and the commission of suicide by the victim. The close proximity should be such as to create a clear nexus between the act of instigation and the act of suicide. As was held in the case of **Sanju @ Sanjay Singh Sengar** (supra), if the deceased had taken the words of the appellants seriously, a time gap between the two incidents would have given enough time to the deceased to think over and reflect on the matter. As such, a gap of over a month would be sufficient time to dissolve the nexus or the proximate link between the two acts.”

7 After taking note of the legal position, we will turn to the facts in the matter. The documents on record would certainly show that way back in the year 1989 applicant No.1 and deceased Satish had purchased the land, which was thereafter divided into 26 plots. It has not been exactly stated which was the first transaction of sale, but taking into consideration statements of witness Dnyaneshwar Jadhav and Dattatraya Narwade it can be seen that plots were sold at least since 2003. Thereafter, there are 6-7 witnesses, who state that they had purchased their respective plots in 2007. Thereafter, there are statements of witnesses who have purchased the plot in 2016, 2017, 2023 and all of them have given details as to how they had made the payment of consideration amount. It appears that all of them have given the cheques by dividing the consideration into half, one in the name of applicant No.1 and another in the name of deceased Satish. All of them have stated that at the time of execution of sale deed Satish was also present and has signed on the documents. No complaint was raised to them in respect of payment. Now, except the bare statement of informant and a statement in the alleged suicide note (at this stage we presume that it is in the handwriting of deceased), there is nothing. Now, as regards suicide notes are concerned, important fact to be noted is that the spot panchnama which was executed on 30.11.2023 show that those two chits were found below the carpet. Even at this stage a statement can certainly be made that there is no

statement of any person to show that the situation at the spot was maintained from 25.11.2023 till 30.11.2023, so that any tampering could not have been made. There is no date mentioned on the suicide note. Therefore, there appears to be no nexus at all between the reason for suicide and commission of suicide. Though informant says that he had come to Tuljapur on 23.11.2023 and went back to Pune on 24.11.2023, he does not say that any of the applicants had met after. Even if we take the fact as it is that applicants were insisting that a document should be executed by deceased Satish and informant in their favour stating that they had consented for the sale transactions; yet, stating that or insisting that will not amount to abetment in any manner. May be for their own safety reasons they might be insisting that, that document should be executed before the last plot is sold.

8 From the contents of charge sheet it can be seen that 20 pills were allegedly consumed by Satish. No efforts appears to have been taken to collect the stomach wash. It is not stated in the document or forwarding the dead body for postmortem, who had prescribed the tablet Libotryp Amitripyline + Chlordiazepoxide 500 g and from where Satish had purchased those tablets. Everything has been proceeded on the facts which are taken as undisputed that it is a suicide. There was no cross checking for anything by the Investigating Officer.

9 Thus, taking the facts as those are; yet, those are not sufficient even *prima facie* to attract the ingredients of Section 306 of the Indian Penal Code. Therefore, this is a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Sessions Case No.8/2025 pending before learned Additional Sessions Judge, Osmanabad arising out of First Information Report vide Crime No.493/2023 dated 30.11.2023 registered with Police Station, Tuljapur, Tq. Tuljapur, Dist. Dharashiv (Osmanabad), for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicants viz. 1) **Kisan Bhaurao Dongare**, 2) **Gururaj Kisanrao Dongare** and 3) **Nagesh Kisanrao Dongare**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)