



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

CRIMINAL APPLICATION NO. 1147 OF 2023

1. Jayashree d/o Mahalsakant Parlikar
Age : 58 years, Occ : Service,
R/o Kailas Nagar, Latur,
Tq. & Dist. Latur.
2. Virendra S/o Sunil Polawad
Age : 37 years, Occ : Service,
R/o Vivekanand Chowk, Latur,
Tq. & Dist. Latur.
3. Kiran S/o Ganeshrao Doijad
Age : 33 years, Occ : Service,
R/o Sale Galli, Latur,
Tq. & Dist. Latur.
4. Vaibhavh S/o Vishnupanth Rahatkar
Age : 37 years, Occ : Service,
R/o C/o Ramesh Pathak,
Ram Galli, Latur, Tq. & Dist. Latur.
5. Pandurang S/o Tulsidas Parle
Age : 29 years, Occ : Service,
R/o Bhisamudra, Latur,
Tq. & Dist. Latur.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra,
Through the Police Inspector,
Latur Rural Police Station,
Tq. & Dist. Latur.
2. Pandurang S/o Ashokrao Balwad
Age : 42 years, Occ : Agri., & Business,
R/o Bhatangali, Latur,
Tq. & Dist. Latur.

..RESPONDENTS

Advocate for the applicants : Mr.Shailendra S. Gangakhedkar
APP for Respondent- State : Mr. A.D. Wange
Advocate for respondent No.2 : Mr. T.M. Venjane

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

RESERVED ON : 17th DECEMBER, 2024

PRONOUNCED ON : 6th JANUARY, 2025

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

. The present criminal application is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.), *inter alia*, praying to quash F.I.R. No. 274/2022 registered against the applicants with Latur (Rural) Police Station, Dist. Latur on 31.12.2022 for offence punishable under Section 306 read with Section 34 of the Indian Penal Code (IPC) and Regular Criminal Case No.886/2023 pending on the file of the learned Chief Judicial Magistrate, Latur. Respondent No.2, the informant is brother of deceased Nitin Ashokrao Balwad, who has committed suicide in the night intervening 28.12.2022 and 29.12.2022. The applicants are arrayed as accused Nos.1 to 5 in the matter.

2. Respondent No.2 has stated in the FIR that he was residing along with his family, parents and family of younger brother deceased Nitin Balwad. His younger brother deceased Nitin was employed with Laxmi Mahila Sahakari Bank Ltd., Nanded, Ganjgolai branch, Latur. He was initially employed in the year 2009 and was made permanent in

the year 2013. He states that his brother used to work in the bank and thereafter in the evening he used to go to Hotel Kandil Bar, run by the family, for accounting purposes of the said establishment. He states that, for past about two months, his brother was under constant stress. On inquires, he has informed, his father and wife that he was constantly being targeted by employees in the bank in relation to some affairs of bank with which he was not concerned at all. He further states that on 23.12.2022 all the family members had gathered in their agricultural land at village Bhatangali to observe some rituals. His brother Nitin joined them in the evening after coming back from the bank. He appeared to be under immense stress and also very scared of something. After the meals, he and his father inquired with Nitin about reason for such mental stress and fear to which he replied that some financial fraud has occurred in the bank for which the Inspection Committee had visited the Bank and although he was employed only as a peon, the applicants were alleging that he was responsible for the said fraud and used to harass him on that count. He stated that they were trying to falsely implicate him in the said matter. Thereafter, on 28.12.2022 while deceased Nitin had been to the bank, he and his father was constantly in touch with him over cellphone trying to console him and give courage to him. On the said date i.e. on 28.12.2022, since he did not return back till late in the evening, they tried calling him on

his cellphone, however, phone was switched off, and therefore, contact could not be established with him. Thereafter, his cousin Santosh @ Pappu Narsingh Balwad called his father on 29.12.2022 at around 6 a.m. informing that Nitin had committed suicide by hanging himself from a tree in their agricultural land. He has alleged that his brother committed suicide due to harassment meted out by the present applicants by levelling false allegations of misappropriation of funds of the bank.

3. The postmortem report confirms the fact that deceased Nitin died due to hanging. Respondent No.2 started investigation in the matter by recording statements of respondent No.2, parents and widow of deceased Nitin. The family members have given their statements under Section 161 of the Cr.P.C., which are in lines with the allegations made in the FIR. Apart from this, statement of one Rohit Yerole, a friend of deceased Nitin is recorded. He states that on 28.12.2022, he was consuming liquor along with deceased Nitin till 10 p.m. and thereafter they parted for going to their respective house. He states that during the course of conversation, deceased Nitin informed him about the harassment meted out to him in relation to his work in the bank. However, his statement does not refer to the names of the applicants or any other persons working in the bank, who had allegedly harassed

Nitin. Statement of one Maroti Shinde is also recorded. This Maroti Shinde is Upsarpanch of village Bhatangali. He has stated that he had called Nitin on 28.12.2022 asking him to deposit Gram Panchayat tax of Kandil Bar. Likewise statements of employees working in the bank are also recorded. One Laxmikant Pawar, who is working as Clerk in the branch where deceased was employed states that on 27.12.2022, a surprise inspection was held in the branch. He has also stated about the nature of work of deceased Nitin. According to his statement, Nitin was employed as peon and his working was restricted to carry files, vouchers, etc. and serving water. He states that one Tushar Akkalkote, a friend of deceased informed him on 05.01.2023 that the present applicants had levelled allegations of misappropriation of bank funds against deceased Nitin and had deliberately caused mental harassment to him, as a consequence of which he committed suicide. The branch Manager Jayant Kulkarni also speaks about the surprise visit on 27.12.2022 and nature of duties of deceased Nitin as a peon. He states that, on 31.12.2022, the customers of the bank informed him that the applicants were responsible for causing mental harassment to Nitin resulting in his suicide. The Branch Manager Mr. Jayant Kulkarni gave a supplementary statement on 06.03.2023, wherein he has stated that a few days before said statement (06.03.2023) Mr. Virendra Polawar informed him that deceased Nitin had requested him to offer loan of

Rs.2,00,000/- in November, 2022. He states that he has given a loan of Rs.2,00,000/- to deceased Nitin. Apart from this, statements of Chief Executive Officer and Deputy Chief Executive Officer of the bank are recorded, who have confirmed that they had carried out surprise visit and inspection in the branch on 27.12.2022.

4. It will be pertinent to mention here that the suicide note is recovered from the pocket of shirt of deceased Nitin while his body was found hanging from the tree. In the suicide note, he has stated that he is doing suicide due to harassment and mental stress by the present applicants/accused alleging that he was responsible for the financial irregularities in the branch. He has also stated that it was not possible to him to make both ends meet in the meager salary paid to him by the bank. He states that regular increments are not given, dearness allowance is not updated regularly and bonus is also not paid to employees. It can be gathered that he was not happy with the then Board of Directors of the Bank and Chief Manager, Parlikar.

5. The prosecution agency has filed charge-sheet in the matter, vide charge-sheet No.66/2023 on 25.05.2023, pursuant to which Regular Criminal Case No.886/2023 is registered against the applicants, which is pending before the learned Chief Judicial Magistrate, Latur.

6. Shri Shailendra Gangakhedkar, learned Advocate for the applicants states that the deceased was working as a peon. The statements of the witnesses clearly reflect on the nature of his duties. He states that, it is inconceivable that any allegation could be made against him with respect to financial irregularities in the bank. He further states that although the names of the applicants appeared in the suicide note and the statements of family members as persons who had meted out harassment resulting in the deceased committing suicide, the contents of the suicide note and statements of family members even if assumed to be completely true and correct are not sufficient to make out ingredients of Sections 306 and 107 of the IPC. He states that the material is grossly inadequate to attribute any *mens rea* to the applicants for the offence of Sections 306 and 107 of IPC. He states that the contents of suicide note would also indicate that the deceased was not in a very good financial condition which also can be a cause for his committing suicide. The contents of suicide note according to him find corroboration with the supplementary statement of the Branch Manager, who has stated that Shri Virendra Polawar had informed him that deceased Nitin had taken loan of Rs.2,00,000/- in the month of November, 2022.

7. As against this, Shri A.D. Wange, learned APP and Shri Venjane, learned Advocate for respondent No.2 submit that the contents of suicide note, statements of family members as also statement of Rohit Yerole, a friend of deceased who was with him till 10 p.m. on 28.12.2022 will demonstrate that deceased was under immense stress on account of harassment by his colleague in the bank. He states that although Rohit Yerole does not name any person responsible for the harassment, the suicide note and statements of family members specifically refer to names of all the applicants, who were responsible for the mental harassment meted out to the deceased by trying to implicate him in the financial fraud that had occurred in the bank. They would, therefore, state that this is not a fit case for quashing of prosecution under Section 482 of the Cr.P.C. and that the applicants must be made to face trial in the facts of present case. They state that truth will come to fore only after full-fledged trial.

8. The proposition that correctness or otherwise of the allegations cannot be assessed at this stage is undisputed. However, at the same time, one needs to examine as to whether the undisputed material on record makes an offence punishable under Section 306 of IPC. The essential ingredients of the offence are that the accused must actually instigate, urge or encourage the act of suicide by willfully

acting in a manner which may compel the deceased to commit ghastly act of suicide. *Mens rea* is an essential element of the offence. It is held by catena of decisions of the Hon'ble Supreme Court and this Court that mere harassment meted out to the deceased is not sufficient to hold a person guilty of the offence of abetment of suicide. There must be clear evidence in order to demonstrate active and direct action by the accused that led to the deceased committing suicide.

9. One also has to look at and understand psychology and understanding of the deceased since the act of committing suicide is an outcome of mental stress of the deceased at the relevant time. From the material on record it appears that the deceased was an educated person having good knowledge of worldly affairs. The statements of family members indicate that they are running Bar and the deceased also participated in the said business. In as much as he was assigned the responsibility of maintaining the accounts of the Bar. This shows that he was an educated person having fair knowledge of accounting. It is also undisputed that he was working as a peon in the bank. Although the witnesses whose statements are recorded under Section 161 of Cr.P.C. have stated that the scope of his work was merely carrying files, vouchers, documents, etc. from one desk to the other and serving water etc. to employees and other persons in the bank. He was not assigned

any work relating to accounting or handling of cash in the bank. In such circumstances, it is difficult to believe that he would be driven to commit suicide by his fellow employees who allegedly accused him of financial irregularity in the bank.

10. We may, however, notice that a suicide note is found on the person of the deceased during the inquest panchnama. He has indeed named all the five applicants as persons responsible for the drastic action of suicide committed by him. He states that the applicants accused were attributing misappropriation of funds of the bank to him, which according to him was a completely false allegation. The contents of the suicide note even if accepted to be true and correct, in our considered view are insufficient to make out case of abetment to suicide having regard to the nature of work of the deceased in the bank coupled with the fact that he was a person having knowledge of accounting. He was a man of worldly affairs who was participating in the business of running a Bar. We also noticed that he has simply stated in the suicide note that false allegation of financial irregularity was levelled against him. However, the allegations fall short of suggesting any active or direct action on the part of the applicants accused which may amount to an act of goading, urging, inciting and encouraging act of suicide on the part of the deceased. The contents of suicide note and

statements of family members, friend of deceased suggest that he was disturbed due to these allegations. However, assuming everything to be true, the undisputed material on record referred to above falls short of making out the ingredients of the offence.

11. Perusal of the record indicates that there is no mention of any specific amount allegedly misappropriated by the deceased. There is no material to suggest that any act of misappropriation was unearthed during the surprise inspection. It also appears that the deceased never questioned the applicants about the alleged false allegations, which were being levelled by them against him. Likewise, there is nothing to suggest that the deceased tried to reach out to his superiors, raising grievance against the applicants regarding levelling of false allegations. In this backdrop, we find that the allegations in the alleged suicide note are as vague as they could be.

12. We may also noticed that in the suicide note he has made grievance against the management of the bank with respect to the salary. According to the suicide note, the salary paid was not adequate, increments were not given regularly as should have been given, dearness allowances were not being increased and even bonus was not paid. In a supplementary statement of bank manager has stated about

financial condition of the deceased by referring the loan of Rs. 2,00,000/- that he had sought. It, therefore, appears that the deceased was in a disturbed state of mind due to reasons other than alleged harassment by levelling allegations of financial irregularities.

13. We refer to a Division Bench of this Court in the matter of ***Nasirhusen Mohiddin Jamadar Vs. State of Maharashtra and Another*** reported in ***2024 SCC Online Bom 3741***. Referring to several judgments of the Hon'ble Supreme Court on the point as also earlier decisions of this Court, it is held that mere acts of abuse or insult to the deceased by the accused will not make out an essential ingredient of the offence of abetment to suicide. The material on record must indicate *mens rea* in the form of clear intention on the part of the accused to commit acts in order to instigate the deceased to commit suicide. It is further held that mere allegation of harassment is not enough to attract Section 306 of IPC. The said judgment deals with the contents of suicide note in which allegations were levelled against the accused persons. The said judgment also pertains to quashing of criminal prosecution. This Court has recently taken a similar view in the matter of ***Uddhav Bhaurao Shinde Vs. The State of Maharashtra & Anr. (Criminal Application No. 1067 of 2023, decided on 09.12.2024)***. It is held in the said judgment that abetment of suicide involves a mental process of the accused

instigating a person or intentionally aiding a person to commit suicide.

A positive act on the part of the accused indicating instigation or aiding the act of suicide is essential. The act on the part of the accused should be such that the deceased must find himself in a situation where he is left with no option, but to bring an end to his life. The said judgment in *Uddhav Bhaurao Shinde (supra)* also refers to several decisions of this Court as well as the Hon'ble Supreme Court of India on the point.

14. Viewed in the light of above legal position, we are of the considered opinion that the material on record is grossly inadequate to make out any case against the applicants for the offences under Section 306 and/or 107 of the IPC. It will not be in the interest of justice to force the applicants to face prosecution in such a matter, where the undisputed material on record does not satisfy the essential elements of the offence. We are, therefore, of the considered opinion that FIR and resultant criminal prosecution against the applicants is required to be quashed. Hence, we pass the following order:

ORDER

- (i) The application is allowed.
- (ii) FIR bearing Crime No. 0274 of 2022 registered with Latur Rural Police Station on 31.12.2022 for the offences punishable under Sections 306 read with Section 34 of the Indian Penal Code and Regular

Criminal Case No. 886 of 2023 pending on the file of learned Chief Judicial Magistrate, Latur are quashed against applicants Jayashree d/o Mahalsakant Parlikar, Virendra S/o Sunil Polawad, Kiran S/o Ganeshrao Doijad, Vaibhavh S/o Vishnupanth Rahatkar and Pandurang S/o Tulsidas Parle.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

K.Komal/