



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

CRIMINAL APPLICATION NO. 1222 OF 2022

Mohit Karamjeetsingh Bedi
Age : 20 years, Occ : Education,
R/o ND 2 W 4/11 CIDCO,
New Nanded.

..APPLICANT

-VERSUS-

1. The State of Maharashtra,
Through the Police Officer,
Nanded Gramin Police Station,
Nanded.
2. Bhaskar Pralhadrao More
Age : 30 years, Occ : Business,
R/o Dnyaneshwar Nagar,
ND-42, CIDCO, Nanded
Mobile : 9823403957

..RESPONDENTS

...

Advocate for the applicant : Mr.Satyajit S. Bora
APP for Respondent- State : Mr. S.A. Gaikwad
Advocate for respondent No.2 : Mr. Ashish B. Shinde

...

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

DATED : 6th JANUARY, 2025

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

. The applicant has approached this Court invoking jurisdiction under Section 482 of the Code of Criminal Procedure (Cr.PC.) in order to challenge F.I.R. dated 08.03.2022 registered with Nanded Gramin Police Station, Nanded, for the offence punishable

under Section 306 of the Indian Penal Code (IPC), vide Crime No.0134/2022 along with Charge-Sheet dated 09.12.2022 bearing Final Report No.423/2022 and Regular Criminal Case No.1168/2022 pending on the file of learned Judicial Magistrate, First Class, Nanded, which is registered pursuant to the said F.I.R. and charge-sheet.

2. Respondent No.2 is the informant. He has lodged F.I.R. in relation to demise of his brother deceased Krushna Pralhadrao More (Hereinafter referred to as "the deceased"). The deceased has committed suicide in the night intervening 10.01.2022 and 11.01.2022 by hanging. The allegations in the F.I.R. are that the deceased was a man aged 26 years, who was engaged in the business of running a grocery shop. The deceased and the present applicant/accused were friends. The applicant impressed upon deceased to invest a sum of Rs.5,00,000/- with him for starting business of finance, since as per representation of the applicant, he was holding a valid licence. Respondent No.2 states that the deceased was assured that he would get periodical returns in the form of profits earned from such business and relying on such promise, the deceased invested a sum of Rs.5,00,000/- for the proposed business to be started by the applicant. This amount of Rs.5,00,000/- was arranged by the deceased from his B.C. group (a term generally used for a group of people who contribute

money in a fund at fixed periods and the collection taken by anyone or more members as decided by members) and by borrowing money from some relatives. It is alleged that the applicant did not start the business as represented to the deceased and despite repeated demands, he also did not refund the amount of Rs.5,00,000/- received from the deceased. On the contrary, he used to harass the deceased, whenever he used to ask him to refund the amount. As per allegations in the F.I.R., due to this, the deceased had landed in a very bad financial condition and was finding it impossible to meet expenses for basic day to day needs. According to respondent No.2, his survival was at stake.

3. It will be pertinent to note that although the deceased has committed suicide in the night intervening 10.01.2022 and 11.01.2022, the F.I.R. is lodged on 08.03.2022 i.e. after a period of around two months. Perusal of the F.I.R. does not indicate any reason for delay in lodging F.I.R. It may be mentioned that one Bhaskar Pralhadrao More, brother of the deceased had informed the police about the suicidal death of the deceased on 11.01.2022 at 10:28 a.m. (page No.136 of application). Perusal of the said written intimation indicates that the brother has informed that the deceased had committed suicide by hanging due to mental ailment. On the basis of this statement, Accidental Death Case was registered. The intimation dated 11.01.2022

is completely silent with respect to the allegations levelled in the F.I.R. It is stated in the F.I.R. that the deceased had arranged money for depositing the same with the applicant by borrowing the same from relatives. The prosecution has also recorded statement of maternal uncle of deceased, who has stated that he had advanced a sum of Rs.2,00,000/- to the deceased for investing the same in the proposed business of finance to be started by the applicant. This fact would indicate that the family members and near relatives were aware about the alleged deposit of Rs.5,00,000/- by the deceased with the applicant. The statements in the F.I.R. go on to show that respondent No.2 and family members were aware of alleged investment of Rs.5,00,000/- made by deceased with the applicant and the financial hardships that he faced thereafter on account of failure on the part of the applicant to start the business and share profits of the said business and also refusal to return the amount. However, the statement made first in point of time mentioning probable cause of suicide states that it was due to mental ailment. This statement is made by brother of the deceased. The delay in lodging the F.I.R. needs to be viewed in view of the aforesaid.

4. The F.I.R. is lodged on the basis of Audio Clips allegedly recorded in the mobile phone of the deceased. The script panchnama of the Audio Clips is prepared on 20.03.2022. It will be pertinent to

mention here that the script panchnama records that the mobile phone had a safety password, which was provided by respondent No.2-informant and access to phone could be had only after inserting said password. Thereafter, the Audio Clips were accessed on the mobile phone as per the instructions provided by respondent No.2 by following route :-

File Manager>Local Files>Record wherein three files by names new recording were traced. Below these files, the date and time are mentioned which are as follows :-

Sr. No.	Date	Time	Size of File
1.	10.01.2022	21.02	3.66 MB
2.	10.01.2022	21.28	850 KB
3.	10.01.2022	21.41	7.25 MB

5. The script panchnama records that Audio Clips were played and script was prepared in presence of panchas on 20.03.2022. The panchas have stated that the transcript is prepared as per the contents of the Audio Clips.

6. It is relevant to state that the voice in the Audio Clips is not compared with any other voice sample of the deceased. We have specifically inquired about this from the learned APP as also the learned

counsel for respondent No.2, who have confirmed that the voice in the Audio Clips was not compared with any audio sample of the deceased. The Three Audio Files were forwarded to the Regional Forensic Science Laboratory, Nanded for examination, vide letter dated 22.03.2022. The examination report dated 10.01.2023 merely confirms that the script is prepared as per the contents of the Audio Clips. The relevant observations in the report are as under :-

“... The auditory analysis of the audio recordings marked Ex-1 revealed that the audio recording marked in Ex-1 is continuous in nature and found similar to the transcript attached with case forwarding letter.”

The copy of the covering letter dated 19.01.2022 and examination report dated 10.01.2023 are taken on record and marked “Exhibit-A Colly” for identification.

7. It will be pertinent to mention here that the following questions sheet vide letter dated 22.03.2022 (at page 48 of the application) have not been answered by the Regional Forensic Science Laboratory :-

Q.1:- What is the mobile number of the seized JIO SIMCARD

No.89918640400059316294 ?

Q.3:- What is the date and time of the three audio recordings

referred in the script panchnama ?

8. It is also apparent that respondent No.2 was aware about the password of the cellphone of the deceased. Respondent No.2 is completely silent with respect to the date on which he had first heard the said three audio clips. The date on which the audio clips were heard for the first time assumes significance in view of delay of two months in lodging the F.I.R.

9. In the present case, we find that there is one more circumstance, which is heavily loaded in favour of the applicant. The first statement in point of time from the family members is dated 11.01.2022 immediately upon getting knowledge about the suicide committed by the deceased. This statement is made by real brother of the deceased. This statement does not contain any allegation similar to one that is levelled in the F.I.R. On the contrary, the statement indicates that the deceased had committed suicide due to some mental ailment. The F.I.R. which is lodged after delay of around two months does not speak about the earlier statement dated 11.01.2022. The

supplementary statement also do not provide any clarification with respect to the said statement dated 11.01.2022. The statement dated 11.01.2022 is by real brother of the deceased. There is no reason to disbelieve the same. Had there been any explanation to the said statement in the F.I.R. or in the statements recorded under Section 161 of the Cr.P.C., the same could have been taken into consideration. However, complete silence on the part of respondent No.2 in this regard is difficult to understand and is beyond comprehension.

10. However, even we accept that the audio clips in the mobile phone were recorded on the above dates and time and further that were recorded by the deceased himself, we find that the contents of the Audio Clips do not make out ingredients of Section 306 and/or Section 107 of the Indian Penal Code. It is now well settled by catena of decisions of the Hon'ble Supreme Court as also different High Courts including this Court that mere proof of causing financial hardship can not give rise to a inference that the accused caused abetment to commit suicide punishable under Section 306 of the IPC. We may also refer to judgment of the Hon'ble Supreme Court in the matter of ***Arnab Manoranjan Goswami Vs. State of Maharashtra and others*** reported in ***(2021) 2 SCC 427***. The Hon'ble Supreme Court has dealt with a catena of decisions dealing with essential ingredients of offence of abetment of

suicide. A F.I.R. was lodged against appellant in the said matter for offence under Section 306 of the IPC. The allegations in the F.I.R were that the husband of the informant was running a company doing business of interior designing, engineering consultancy and architecture. According to the informant, wife of the deceased the appellant had not made payment for the work done by company of her husband (deceased) for a period of over two years resulting in financial pressure on the deceased. It was also alleged that the deceased husband had visited the office of appellant on several occasions making demand of payment of money. He had left a suicide note mentioning that the persons named in the said note were not paying legitimate dues of his company. The appellant had unsuccessfully challenged the F.I.R. before the High Court. The appellant then carried the order passed by the High Court to the Hon'ble Supreme Court. In this backdrop of facts, the Hon'ble Supreme Court has held as under :-

“62. Prima facie, on the application of the test which has been laid down by this Court in a consistent line of authority which has been noted above, it cannot be said that the appellant was guilty of having abetted the suicide within the meaning of Section 306 IPC. These observations, we must note, are prima facie at this stage since the High Court is still to take up the petition for quashing. Clearly however, the High Court

in failing to notice the contents of the FIR and to make a prima facie evaluation abdicated its role, functions and jurisdiction when seized of a petition under Section 482 CrPC. The High Court recited the legal position that the jurisdiction to quash under Section 482 has to be exercised sparingly. These words, however, are not meaningless incantations, but have to be assessed with reference to the contents of the particular FIR before the High Court. If the High Court were to carry out a prima facie evaluation, it would have been impossible for it not to notice the disconnect between the FIR and the provisions of Section 306 IPC. The failure of the High Court to do so has led it to adopting a position where it left the appellant to pursue his remedies for regular bail under Section 439. The High Court was clearly in error in failing to perform a duty which is entrusted to it while evaluating a petition under Section 482 albeit at the interim stage.”

11. For the reasons aforesaid, we are of the considered opinion that the contents of the F.I.R., statement of witnesses recorded under Section 161 of the Cr.PC. and the contents of three audio clips and other material gathered during the course of investigation and forming part of charge-sheet are insufficient to make out essential ingredients of Section 306 of the IPC. Since undisputed material on record does not satisfy the essential requirement of Section 306 of the Indian Penal

Code, it would be unjust to force the applicant to face criminal prosecution for the said offence. In view of the reasons aforesaid, we allow the criminal application by passing following order :-

ORDER

- (i) The application is allowed.
- (ii) F.I.R. dated 08.03.2022 registered with Nanded Gramin Police Station, Nanded, for the offence punishable under Section 306 of the Indian Penal Code, vide Crime No.0134/2022 along with Charge-Sheet dated 09.12.2022 bearing Final Report No.423/2022 and Regular Criminal Case No.1168/2022 pending on the file of learned Judicial Magistrate, First Class, Nanded, are hereby quashed against applicant - Mohit Karamjeetsingh Bedi.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/