



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 CRIMINAL APPLICATION NO.1789 OF 2024

- 1 Prasad Kalidas More,
Age 21 yrs., Occ. Student,
R/o Mehkar, Tq. Bhalki,
Dist. Bidar.
At present r/o Venkateshnagar,
Nideban, Tq. Udgir, Dist. Latur.
- 2 Shailesh Shivshankar Marwade,
Age 24 yrs., Occ. Student,
R/o Khedkarwadi, Tq. Loha,
Dist. Nanded.
At present r/o Sambhaji Nagar,
Nideban, Tq. Udgir, Dist. Latur.
- 3 Kaustubh Venkatrao Pawar,
Age 25 yrs., Occ. Student,
R/o Sambhaji Nagar,
Nideban, Tq. Udgir, Dist. Latur.
- 4 Abhishek Shrikant Satale,
Age 25 yrs., Occ. Labour,
R/o Sambhaji Nagar,
Nideban, Tq. Udgir, Dist. Latur.
- 5 Arvind Gajanan Kholgadage,
Age 28 yrs., Occ. Labour,
R/o Sambhaji Nagar,
Nideban, Tq. Udgir, Dist. Latur.
- 6 Sachin Gajanan Kholgadage,
Age 26 yrs., Occ. Labour,
R/o Sambhaji Nagar,
Nideban, Tq. Udgir, Dist. Latur.
- 7 Mamta w/o Arvind Kholgadage,
Age 24 yrs., Occ. Household,

R/o Sambhaji Nagar,
Nideban, Tq. Udgir, Dist. Latur.

8 Amol Ashok Kachare,
Age 24 yrs., Occ. Student,
R/o Sambhaji Nagar,
Nideban, Tq. Udgir, Dist. Latur.

9 Ranveer Ramchandra Natkare,
Age 23 yrs., Occ. Student,
R/o Sambhaji Nagar,
Nideban, Tq. Udgir, Dist. Latur.

... Applicants

... **Versus** ...

1 The State of Maharashtra
Through Police Inspector,
Rural Police Station, Udgir,
Tq. Udgir, Dist. Latur.

2 Satyashila w/o Rajendra Balande,
Age 48 yrs., Occ. Household,
R/o Sambhaji Nagar,
Tq. Udgir, Dist. Latur.

... Respondents

...

Mr. G.D. Kale, Advocate for applicants

Mrs. Priya R. Bharaswadkar, APP for respondent No.1

...

CORAM : SMT. VIBHA KANKANWADI &
SUSHIL M. GHODESWAR, JJ.

DATE : 21st AUGUST, 2025

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

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing the Charge Sheet No.36/2024 i.e. the proceedings in Special Case No.16/2024 pending before learned Additional Sessions Judge, Udgir, Tq. Udgir, Dist. Latur, arising out of First Information Report vide Crime No.697/2023 dated 22.12.2023 registered with Rural Police Station, Udgir, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860, under Sections 66(C) and 66(E) of the Information Technology Act, 2000 and under Section 3(2) (5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2 Heard learned Advocate Mr. G.D. Kale for applicants and learned APP Mrs. P.R. Bharaswadkar for respondent No.1. Learned Advocate for respondent No.2 remained absent.

3 Learned Advocate appearing for applicants has taken us through the entire charge sheet including First Information Report. Respondent No.2 is mother of deceased Vikram Rajendra Balande and present applicants are stated to be the friends or friends' friends. Learned Advocate for applicants submits that it is stated that deceased was suffering from some physical

problem and he used to search for some videos on YouTube. Some of the applicants came to know about the same and they had hacked the WhatsApp account, Google account, Facebook account and YouTube account of deceased and they were blackmailing him. It was alleged that applicant No.2 Shailesh is the leader of applicants and they were mentally harassing deceased Vikram, however, First Information Report is silent since when the harassment was going on. It is only stated that since few days prior to First Information Report when informant found that Vikram was under mental tension, then she asked as to what has happened ? He then told her that some friends were giving mental harassment. He appears to have told that applicants were teasing him on the point of his physical problem (which appears to be on sexual point). There was operation of the second son of informant on 19.11.2023 and, therefore, he was taken by the other relatives i.e. brother-in-law of informant and her elder sister to Hyderabad in Yashoda Hospital. On the next day i.e. around 10.00 a.m. on 20.11.2023 nephew of respondent No.2 gave call to brother-in-law of informant stating that something has happened to Vikram and, therefore, they should go to the village. Immediately informant and her elder sister reached Udgir around 8.30 p.m., whereupon it was told to informant that they will have to go to Government Hospital, Udgir. When already people had gathered there, informant realized that some untoward incident has happened and then it

was disclosed to her that Vikram has committed suicide in the house. It is then stated that Vikram had left two chits on the sofa in the house which was written on 19.11.2023, in which names of nine persons were disclosed stating that by hacking his accounts they had taken the personal information of Vikram and blackmailing him.

4 The applicants are not disputing that Vikram died due to hanging i.e. he committed suicide, but they are disputing that they had abetted the commission of suicide. It appears that the chits have been sent for Handwriting Expert's opinion and even if we consider the contents of chits were written by deceased Vikram; yet the contents do not show when the Facebook account or Google account or other accounts of deceased Vikram were hacked. The entire charge sheet would show that absolutely no scientific investigation in that respect has been carried out, so as to invoke the ingredients of offences under the Information Technology Act. In the alleged suicide note it is then stated that Vikram had suspicion that applicant No.2 was the mastermind and problem was not going to be solved by giving money. The said things were going on since last many days. He had some health issue like weakness and for that purpose he used to search for information on Google. The applicants alleged to have misused the information and defamed him and, therefore, he has stated that he is

committing suicide. In respect of applicant No.7 he has used abusive language and then says that his reports were normal and he was going to be cleared from health issue. He says that he came to know about the plan of applicants to make search of history of his search for Google and Facebook, but before that he has committed suicide. The second chat was addressed to younger brother that he should take care of himself and their sister. The charge sheet also contains message given on WhatsApp to husband of sister of deceased, wherein Vikram had informed that he would be committing suicide and he has stated that sister should take revenge. It appears that police have taken search of the history of accounts of deceased, but that is not sufficient to prove that account was hacked. There appears to be some financial transactions through electronic mode between deceased and applicants, but if we consider the amount, then it can be said to be friendly advances. The amount that has been shared is not even more than Rs.10,000/- at a single transaction. Amounts like 500, 700 and 300 have been repeatedly given. The documents showing the WhatsApp chat with one Ramdas Rathod would show that the deceased had asked him as to how much amount is due towards him (Paise kiti ahet tuze Ramdas). But the further conversation has no link and it was asked that the amount should be given on PhonePe. Possibility of hand loan cannot be ruled out. Further, it appears that there is money transaction between applicant No.7 and

deceased, but that does not mean that it was the outcome of blackmailing and why she should then blackmail the deceased. None of the applicants had any reason to think that deceased should commit suicide. Therefore, even *prima facie* the ingredients of offence are not getting attracted. Applicant No.8 himself is also a member of Scheduled Caste and, therefore, the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act will not get attracted against him and for even others caste of deceased what was not an issue.

5 Per contra, learned APP has strongly opposed the application. He submitted that it appears that deceased had some sexual problem and he was making search on the point on the social platform. The medical reports of deceased appeared to be normal. But it appears that present applicants had hacked the social media accounts of deceased and from the history of his search they used to blackmail him. There is evidence regarding transfer of money by deceased to some of the applicants and most importantly the deceased has left the suicide note, in which clearly he has blamed present applicants. The statements of witnesses, especially the sister of deceased, wherein she has stated that on 19.11.2023 Vikram had given her call from the mobile phone of brother Suraj and had informed as to how present applicants used to tease him and give mental stress to him. She has stated

that he was on talking terms with applicant No.7 and she knew about physical problem of Vikram. But she was then demanding money from deceased. Vikram has then given amount on Phonepe account of her husband Arvind and brother-in-law Sachin. Applicant No.7 was blackmailing him. He had told that applicant No.8 Amol had created Facebook account and Instagram account of deceased Vikram in his mobile and for that purpose he had the E-mail ID of deceased. He has then as it appears that had given ID of deceased to others and also the password, whereupon they were hacking the mobile of deceased and watching the history of searches made by Vikram. Upon the said history they used to then teasing him. Even brother Suraj has also given the same story and, therefore, this is supporting to suicide note. Deceased appears to have consulted Dr. Rajesh Rathi of Apex Clinic, who is Psychiatry, Sexologist and De-addiction Specialist from Nagpur. The bank account details have also been taken and, therefore, there is sufficient evidence to take cognizance of offence and, therefore, this is not a fit case where this Court should interfere.

6 Before turning to the facts of the case, we would like to consider the legal position. In recent decision in **Abhinav Mohan Delkar vs. the State of Maharashtra and others, Criminal Appeal Nos.2177-2185 of 2024, decided on 18th August 2025**, the Hon'ble Supreme Court has considered many

leading cases, i.e., the decision in **Ude Singh and Others. vs. State of Haryana** [(2019) 17 SCC 301], **Pawan Kumar vs. State of Himachal Pradesh** [(2017) 7 SCC 78], **Amalendu Pal vs. State of West Bengal** [(2010) 1 SCC 707], **S.S. Chheena vs. Vijay Kumar Mahajan** [(2010) 12 SCC 190], **Chitresh Kumar Chopra vs. State (NCT Of Delhi)** [(2009) 16 SCC 605], **Madan Mohan Singh vs. State of Gujarat** [(2010) 8 SCC 628], **Prakash and others vs. State of Maharashtra and another** [2024 SCC OnLine 3835], **State of West Bengal vs. Orilal Jaiswal** [(1994) 1 SCC 73]. After taking into consideration all these cases, the Hon'ble Supreme Court, in **Abhinav Mohan Delkar** (supra), observed thus :

“22. What comes out essentially from the various decisions herein before cited is that, even if there is allegation of constant harassment, continued over a long period; to bring in the ingredients of Section 306 read with Section 307, still there has to be a proximate prior act to clearly find that the suicide was the direct consequence of such continuous harassment, the last proximate incident having finally driven the subject to the extreme act of taking one's life. Figuratively, 'the straw that broke the camel's back'; that final event, in a series, that occasioned a larger, sudden impact resulting in the unpredictable act of suicide. What drove the victim to that extreme act, often depends on individual predilections; but whether it is goaded, definitively and demonstrably, by a particular act of another, is the test to find *mens rea*. Merely because the victim was continuously harassed and at one point, he or she succumbed to the extreme act of taking his life cannot by itself result in finding a positive instigation

constituting abetment. *Mens rea* cannot be gleaned merely by what goes on in the mind of the victim.

23. The victim may have felt that there was no alternative or option, but to take his life, because of what another person did or said; which cannot lead to a finding of *mens rea* and resultant abetment on that other person. What constitutes *mens rea* is the intention and purpose of the alleged perpetrator as discernible from the conscious acts or words and the attendant circumstances, which in all probability could lead to such an end. The real intention of the accused and whether he intended by his action to at least possibly drive the victim to suicide, is the sure test. Did the thought of goading the victim to suicide occur in the mind of the accused or whether it can be inferred from the facts and circumstances arising in the case, as the true test of *mens rea* would depend on the facts of each case. The social status, the community setting, the relationship between the parties and other myriad factors would distinguish one case from another. However harsh or severe the harassment, unless there is a conscious deliberate intention, *mens rea*, to drive another person to suicidal death, there cannot be a finding of abetment under Section 306.

24. We have already seen that even a rebuke to “go, kill yourself”; often a rustic expression against distasteful conduct, cannot by itself be found to have the ingredients to charge an offence of abetment to suicide. There is no uniformity in how different individuals respond and react under pressure. Many stand up, some fight back, a few runaway and certain people crumble and at times take the extreme step of suicide. To put the blame on the pressure imposed and the person responsible for it, at all times, without something more to

clearly discern an intention, would not be the proper application of the penal provisions under Section 306.”

Thus, taking note of the legal requirements now we will turn towards facts of the case. Most of the facts are already forming part of submissions. We do not want to repeat them, unless we feel that the repetition is necessary.

7 The first and the foremost fact that is required to be noted is that the applicants are not from the same age group or there is less possibility that they were the classmates. How they were knowing each other has not been explained either in First Information Report or in statements of witnesses. In order to call a person as a friend they should know each other. Since when these applicants and deceased Vikram knowing each other has also not been stated. If at all Vikram was suffering from any physical problem, then whether instead of sharing that with mother or brother or any other family member, whether he would share it with the friends and, that too, especially applicant No.7 Mamta, who is a married lady. The said physical problem is stated to be related to sexual act. Of course, there is a certificate of Dr. Rajesh Rathi dated 07.03.2024 stating that deceased Vikram had visited his Clinic on 03.02.2022 for problem of erectile dysfunction (ed) and the medical information regarding this is inability to get or maintain an erection

long enough to have sexual intercourse. The certificate also states that after that visit i.e. 03.02.2022 Vikram had not visited the said Clinic and the treatment that was prescribed was for one month. So whatever appears to be the treatment or problem was of the year 2022 and the suicide has been committed on 19.11.2023. So there appears to be no proximity as such, taking into consideration these dates. Now, there is not a single document on record showing the scientific investigation to show that how the mobile of deceased was hacked. It appears that Investigating Officer has not taken help of a cyber expert. His statement under Section 161 of the Code of Criminal Procedure has not been recorded. In the statement of sister taken on 29.12.2023 i.e. after a period of about seven days of First Information Report she has stated about the role played by applicant No.8 Amol regarding helping deceased in opening deceased's account on Instagram and Facebook. Now, there is no document to show that when this Instagram and Facebook account was created. Hacking is possible only thereafter and not otherwise. Now, it is her statement that deceased had told her that accused Amol has given the ID and password to other applicants and then there used to be hacking of deceased's mobile by all of them. The questions are again - As to whether they were watching the search history of deceased at the same time and from whose mobile number or they were individually hacking it from different mobile numbers ? When was the last hacking that was done ?

Since when the applicants were allegedly blackmailing the deceased ? The answer of these questions is not in the entire charge sheet. It is hard to believe that for the said physical problem of erectile dysfunction (ed) the deceased would have told it to applicant No.7, the married lady. Again, at the cost of repetition, we would say that since when applicant No.7 was knowing deceased is not coming forward. There is absolutely no evidence regarding transfer of any amount directly to her but then it is stated that amount was given to her husband and brother-in-law. If that amount was demanded as blackmailing, then why it was not told to the family members. He had opportunity to lodge a report regarding the blackmail. Small amount like 500, 300 or even 3000 cannot be said to be the blackmailing amount unless a substantial amount is then shown. Further, the Investigating Officer as well as now prosecution are not coming with a case that, that transfer of amount was an extortion and necessary sections have not been added. They are trying to project that since there was blackmailing and transfer of money, the deceased was forced to commit suicide. But, as aforesaid, in order to prove the abetment the active part in respect of each of the accused persons is necessary and there has to be a proximity. If such acts were going on since long and there is no evidence regarding the last transaction or last incident of encountering of all the applicants and deceased, it will not amount to an abetment as contemplated under Section 107 as well as Section 306 of the

Indian Penal Code.

8 We take the alleged suicide note as it is and at this stage presume that it has been left by deceased on 19.11.2023; yet it lacks all those details. In the suicide note he has not stated about the role of applicant No.8 Amol as stated by sister in her statement under Section 161 of the Code of Criminal Procedure. Rather in the suicide note he makes accused No.2 as mastermind and he has used the word 'hang' (ought to have been 'hacked'). Hacking of the mobile is a different concept, which will not include knowledge about password and ID. Therefore, at one breath the prosecution intends to state that Amol had knowledge about password and ID of deceased, who had then allegedly shared it to the other accused persons. But then in the suicide note where it is stated to be hacked, then question of sharing or knowledge about password and ID will not arise. As regards applicant No.7, he has tried to give a different colour about his relationship with her and if that was the issue, then question of hacking by her together with other applicants including her own husband also will not arise. He has also used the word that he has been defamed, because of his health problem. But, neither First Information Report nor statements of brother, sister gives an indication that there was a defamation of deceased on that count. The defamation has to be made public and when even the family members were not knowing as to

what has been alleged against the deceased's health by these applicants, it cannot amount to defamation at all. Thus, perusal of entire material including First Information Report in charge sheet would show that the ingredients of offence were not getting attracted even *prima facie* and under such circumstance, it would be an abuse of process of law if the applicants are asked to face the trial. This is a fit case where the powers under Section 482 of the Code of Criminal Procedure should be exercised. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The Charge Sheet No.36/2024 i.e. proceedings in Special Case No.16/2024 pending before learned Additional Sessions Judge, Udgir, Tq. Udgir, Dist. Latur, arising out of First Information Report vide Crime No.697/2023 dated 22.12.2023 registered with Rural Police Station, Udgir, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860, under Sections 66(C) and 66(E) of the Information Technology Act, 2000 and under Section 3(2)(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, stands quashed and set aside as against applicants viz. 1) **Prasad Kalidas More**, 2) **Shailesh**

Shivshankar Marwade, 3) Kaustubh Venkatrao Pawar, 4) Abhishek Shrikant Satale, 5) Arvind Gajanan Kholgadage, 6) Sachin Gajanan Kholgadage, 7) Mamta w/o Arvind Kholgadage, 8) Amol Ashok Kachare and Ranveer Ramchandra Natkare.

(SUSHIL M. GHODESWAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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