



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

CRIMINAL APPLICATION NO. 2312 OF 2022

1. Dilip s/o Nivrutti Kadam
Age:-61 years, Occ. Agri.,
2. Nitin S/o Nagnath Kadam @ Patil,
Age:- 41 years, Occ. Agri.
3. Namdev s/o Sahebrao Lobhe,
Age:-39 years, Occ. Agri.
4. Baba @ Babasaheb s/o Tukaram Patil,
Age :-60 years, Occ.Agri.
5. Trimbak s/o Yashwant More,
Age:- 74 years, Occ. Household,
6. Narayan s/o Saheb @ Sahebrao Lobhe,
Age:-43 years, Occ: Agri
7. Dnyaneshwar s/o Trimbak Lobhe,
Age:-49 years, Occ. Agri.,

All R/o Kanegaon, Tq. Lohara,
Dist. Ahmednagar

...APPLICANTS

-VERSUS-

1. The State of Maharashtra
Through the Police Inspector,
Lohara Police station
Tq. Lohara, Dist. Osmanabad,
2. Manoj s/o Phulchand Gaikwad,
Age:- 34 years, Occ. Electrical Work,
R/o Kanegaon, Tq. Lohara,
Dist. Osmanabad

..RESPONDENTS

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Advocate for the Applicants : S. S. Gangakhedkar
A.P.P. for Respondent/State : A.D. Wange
Advocate for Respondent No.2 :- Mr. A. U. Chandel

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

DATED : 9th JANUARY, 2025

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

1. The applicants in the present matter are arrayed as accused persons in FIR No.112 of 2022 registered with Police Station Lohara, District Osmanabad on 29.04.2022 for the offences punishable under Sections 306 of the Indian Penal Code, 1860 and Section 3 (2) (va) of the Scheduled Caste and Scheduled tribes (Prevention) of Atrocities Act, 1989.

2. One, Ankush Gaikwad, committed suicide in the night intervening 28.04.2022 and 29.04.2022 by hanging himself from a tree in front of an immovable property in village Kanegaon, Taluka Lohara, District Osmanabad, which is referred in the FIR as Samajmandir (Community Temple). The post-mortem conducted confirms that the deceased had died due to hanging. On the next day, i.e., on 29.04.2022, respondent No.2, Manoj Gaikwad who is brother of the deceased lodged FIR with respondent No.1 stating that there was a dispute between two groups in relation to the community temple in the village.

He states that the District Collector had given an assurance in December 2021 that meeting of rival groups will be called in order to resolve the issue. The issue was to be resolved till March 2022, as per alleged assurance. Respondent No.2 states that since the issue could not be resolved his brother felt dejected and was very disturbed and consequence of which he has committed suicide on 28.04.2022. He states that the persons named as accused in the FIR, i.e., the present applicants and three others were responsible for closure of the community temple, as a consequence of which his brother committed suicide.

3. Respondent No.1 after registering the FIR has conducted investigation in the matter. Statements of various persons have been recorded during the course of investigation which clearly establish that there was some issue with respect of possession and entitlement of his community temple in the village between two rival groups. The statements of villagers have been recorded during the course of investigation who confirm the fact of dispute between two communities. The statement of Village Development Officer, Panchayat Samiti, Lohara reveals that from the year 2017 there was a dispute between two communities in relation to the community temple. Thereafter, in the year 2021 meeting of Gramsabha was held on the

issue in which it was resolved that since the issue was pending for adjudication, the premises should not be opened. He refers to various meetings and interventions by government officers for resolution of the issue and states that the matter ultimately went into litigation which is pending.

4. The villagers who belong to the group of deceased have stated in their statements that the accused persons were responsible for the issue remaining pending, as a consequence of which deceased felt dejected and committed suicide, seeing no hope of resolution of dispute. It appears that since the deceased was belonging to Scheduled Caste Category, offence under Section 3 (2) (va) of the Scheduled Caste and Scheduled tribes (Prevention) of Atrocities Act is also registered apart from Section 306 of the IPC. The applicants have filed certain documents pertaining to litigation with respect to the property in question. It appears that a representative suit being Regular Civil Suit No.344 of 2017 was filed by the group of the deceased in which an application for grant of temporary injunction was moved vide Exhibit-5. The prayer in the said application was for challenging the decision taken by the Grampanchayat to keep the property under its control and possession. The said application for grant of temporary injunction was rejected by the learned Civil Judge, Lahora, vide order dated

17.11.2017. The group of deceased had preferred an appeal challenging the said order being Miscellaneous Civil Appeal No.19 of 2017. The said appeal came to be dismissed vide judgment and order dated 20.10.2021 passed by the learned District Judge-1 Omerga.

5. Shri. S. S. Gangakhedkar, the learned Counsel appearing for the applicants submits that there was no personal enmity or dispute between applicants and deceased. He states that the applicants had no personal interest in the community temple. He points out that two rival groups were staking claim over the said temple and the issue was pending for the adjudication before the competent Civil Court. He also refers to the FIR and other material in the charge sheet to demonstrate that the applicants had no intention of causing abetment to the deceased to commit suicide. He submits that the FIR has been lodged only in order to ease the tension that was created due to the unfortunate incident. According to him, the entire material in the form of FIR and statements in the charge sheet even if accepted to be completely true and correct do not make out essential ingredients of Section 306 of the IPC.

6. As against this, the learned A.P.P. Shri. A. D. Wange and Mr. A. G. Chandel, learned Counsel appearing for respondent No.2 submit that the applicants have failed to make out a case for interference under

Section 482. They submit that no case is made out to scuttle the prosecution at this stage.

7. We have heard the submissions of respective Counsel and have perused the records with their able assistance. Having perused the FIR and statements of witnesses in the charge sheet, we find that there is an issue with respect to community temple between two rival groups in the village. The deceased did not have any personal dispute or grievance against the applicants. The deceased has taken extreme step of bringing end to his life probably finding no hope of early resolution of the issue. However, there is absolutely no material to hold that the present applicants were responsible for the same. Even assuming that the present applicants were responsible for the stalemate, it cannot be said by any stretch of imagination that they are responsible for the suicidal death of the deceased. There is absolutely no material to remotely infer abetment of suicide on the part of applicants. The applicants have neither instigated nor aided for the act of suicide. Nobody, including the applicants could have imagined that the deceased would commit suicide all of a sudden with respect to a community issue which was pending for over a period of 6 years. It will also pertinent to mention here that the issue is pending for adjudication before the competent Civil Court. The Civil Court had rejected

application for grant of temporary injunction filed by the group of the deceased and miscellaneous appeal arising out of the said order is also dismissed.

8. Having regard to totality of circumstances, we are of the considered opinion that there is absolutely no case against the applicants and as such the FIR and Criminal Case against them are liable to be quashed. Hence we pass the following order:-

ORDER

(i) The application is allowed.

(ii) FIR No.112 of 2022 registered with Police Station Lohara, District Osmanabad on 29.04.2022 for the offences punishable under Sections 306 of the Indian Penal Code, 1860 and Section 3 (2) (va) of the Scheduled Caste and Scheduled tribes (Prevention) of Atrocities Act, 1989, and Special (Atrocity) Case No.13 of 2022 are quashed against all the applicants, namely, (1) Dilip s/o Nivrutti Kadam (2) Nitin s/o Nagnath Kadam @ Patil, (3) Namdev s/o Sahebrao Lobhe, (4) Baba @ Babasaheb s/o Tukaram Patil, (5) Trimbak s/o Yashwant More, (6) Narayan s/o Saheb @ Sahebrao Lobhe, (7) Dnyaneshwar s/o Trimbak Lobhe.

[ROHIT W. JOSHI]

JUDGE

[SMT. VIBHA KANKANWADI]

JUDGE

Narwade