



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

34 CRIMINAL APPLICATION NO. 2179 OF 2023

1. Arun Dhruatrao Gore,
Age: 45 Years, Occupation: Agriculture,
R/o: Waghla, Tq: Vaijapur, District: Aurangabad.
2. Deepak Popatrao Aware,
Age: 37 Years, Occupation: Agriculture,
R/o: Ladgaon Road, Vaijapur,
Tq: Vaijapur, District: Aurangabad. **... Applicants**

Versus

1. State of Maharashtra.
2. Tukaram Dashrath Pathare,
Age: 51 years, Occupation: Agriculture,
R/o: Kinhal, Tq: Gangapur,
District: Aurangabad. **... Respondents**
[Respondent No.2 - Orig. First Informant]

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Mr. Joydeep Chatterji, Advocate for Applicant.

Mr. A. D. Wange, APP for Respondent / State.

Mr. Abid R. Shaikh, Advocate for Respondent No.2 (Appointed).

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

DATE : 13th February, 2025.

P.C.:

. Present application has been filed for quashment of the charge-sheet i.e. Regular Criminal Case No.83 of 2022, pending before the learned Judicial Magistrate First Class, Gangapur, District

Aurangabad, arising out of C.R. No.64 of 2021, dated 24th March, 2021, registered with Shillegaon Police Station, District Aurangabad, for the offence punishable under Sections 306, 420 and 506 read with 34 of the Indian Penal Code and Sections 39 and 45 of the Maharashtra Money Lending Act.

2 Heard the learned counsel for the applicant, the learned APP for respondent No.1 and the learned appointed counsel for respondent No.2.

3 The learned counsel for the applicants submits that, since the original applicant No.2 had then withdrawn the application, this Court by order dated 10th October, 2023, allowed the request and therefore, the matter has proceeded only in respect of Applicant No.1. Hereinafter, applicant No.1 is referred to as the “applicant”.

4 The learned counsel for the applicant has taken us through the entire charge-sheet, including the FIR and submits that the present applicant had separate transaction with the deceased. Though the present applicant is not disputing the fact that deceased Ganesh Dashrath Pathare had committed suicide on 23rd March, 2021, but it can be seen that the name of the present applicant is not reflected in the FIR as well as the suicide note that has been left by the deceased. In the statements of many witnesses also, the name of the

present applicant is not reflected. It appears that, during the course of the investigation, the investigating officer has collected a copy of the plaint i.e. Special Civil Suit No.32 of 2020 filed before the learned Civil Judge Senior Division, Vaijapur, by the present applicant in the capacity as a Director of Kapishwar Agro LLP, for a suit for Specific Performance of Contract and perpetual injunction. It was in respect of 1 H. 62 R. land situated at village Kinhal, Taluka Gangapur, District Aurangabad and the agreement to sale in favour of the partnership firm was executed on 31st July, 2019. The amount of consideration appears to be fixed at Rs.7,00,000/- and out of the said amount, an amount of Rs.6,00,000/- has been given to the deceased. Prior to that, the present applicant had issued notice through advocate on 7th October, 2020 to deceased Ganesh Pathare, calling upon him to execute the sale-deed. This is the only transaction between the deceased and the applicant. But the applicant had never intended to drive the deceased to commit suicide. There were no acts of abetment and the entire charge-sheet will not demonstrate that there was any kind of common intention or conspiracy between the applicant and the co-accused. Therefore, it would be unjust to ask the applicant to face a trial.

5 The learned APP as well as the learned appointed counsel for respondent No. 2 strongly oppose the application and submit that

the informant, who is the brother of the deceased, has stated that as the deceased was in need of money, he had approached one Vikrant Jadhav for hand loan, in fact, that was also with exorbitant interest. There is evidence that has been collected to show that said Vikrant Jadhav is a money lender and he grabs the land belonging to the farmers, who are in financial need. When it was realized by the informant and deceased Ganesh that in spite of repayment of entire loan, Vikrant Jadhav was not willing to return the land, in respect of which the sale-deed was got done, which was of-course nominal. Ganesh had filed civil suit i.e. Special Civil Suit No.374 of 2019, before Civil Judge Senior Division, Aurangabad. Even then, the present applicant, who is the aid of accused Vikrant Jadhav, had sent notice dated 7th October, 2020, and the deceased was under tension. He had almost lost the land which was in the name of his wife and then the present applicant had sent the notice in respect of another piece of land. Ultimately, he committed suicide by consuming poisonous substance. There is evidence on record to show that the present applicant is the aid of accused Vikrant Jadhav as the applicant is serving as a teacher in the school run by the society of Vikrant Jadhav. In the suicide note, though it appears that there is no direct name of the present applicant, but he has given the first name and has stated that he was not even knowing the present applicant, who had sent him the notice. At the time of evidence, all these aspects would be made

clear. Therefore, this is not a fit case where powers under Section 482 of the Cr.P.C. are required to be exercised.

6 The first and the foremost fact with which the prosecution is coming is that the present applicant is the aid of co-accused Vikrant Jadhav. It is also stated in the FIR that one Deepak Aware is the brother-in-law of Vikrant Jadhav. The transaction when the loan was allegedly taken by the deceased, appears to be between the deceased Ganesh and his wife Sangita and the land was in the name of Sangita. The informant states that deceased has mitigated the loan, but the document of resale was not executed and when their possession was interfered with, deceased Ganesh and his wife filed Special Civil Suit No.374 of 2019, before Civil Judge Senior Division, Aurangabad. Now as regards the present applicant is concerned, there is evidence on record to show that he is serving as a teacher in the school run by the organization of Vikrant Jadhav. Now he says that he is the Director of one Kapishwar Agro LLP, with whom deceased had allegedly entered into the agreement to sale on 31st July, 2019. Though a copy of the notice dated 7th October, 2020 and the plaint in the suit filed by the present applicant have been collected by the investigating officer, it appears that investigation in respect of further details has not been done. The possibility of such investigation under Section 173(8) of Cr.P.C. cannot be ruled out. As per the suicide note, deceased

Ganesh had not entered into any such document and his signatures were forcibly taken. In the charge-sheet, there is a copy of complaint S.C.C. No.179 of 2020, filed before the learned Judicial Magistrate First Class, Kannad on 11th February, 2020, for the offence punishable under Sections 504 and 506 read with 34 of the IPC. It is filed b Deepak Aware and the present applicant has been shown to be the witness. When there is evidence connecting the applicant to the institution run by accused Vikrant Jadhav and said Deepak Aware is the brother-in-law of the said Jadhav and taking into consideration the other transactions involved, statements of witnesses, we do not find this to be a fit case where we can exercise our powers under Section 482 of the Cr.P.C.

7 The application, therefore, stands rejected.

8 The fees of the appointed counsel for respondent No.2 is quantified at Rs.7,000/- and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]

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