



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2943 OF 2023

1. Babu Maroti Wanole,
Age : 33 years, Occ. Agriculture,
R/o. Lohgaon Tq. Biloli,
District Nanded.
2. Saybu S/o Laxman Metkar,
Age : 53 Years, Occ. Agricuture
3. Shantabai W/o Saybu Metkar,
Age : 72 Years, Occ. Household,
4. Shivaji Saybu Metkar,
Age : 34 Years, Occ. Agriculture
5. Sanjay Saybu Metkar,
Age : 30 Years, Occ. Agriculture
6. Ashok Saybu Metkar,
Age : 23 Years, Occ. Agriculture
7. Maroti Saybu Metkar,
Age : 28 Years, Occ. Agriculture

All resident of Narsi Taluka Naigaon,
District Nanded.

.Applicants

VERSUS

1. The State of Maharashtra,
Through Police Station Ramthirth
Taluka Biloli, District Nanded.
2. Mohan Madhavrao Wanole,
Age : 45 Years, Occ. Agriculture,
R/o. Lohgaon Tq. Biloli,
District Nanded.

.. Respondents

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Advocate for the applicants : Mr. S. Y. Mahajan holding for
Mr. V. V. Bhavthankar
A.P.P for Respondent No.1/State : Mr. A. R. Kale

Advocate for Respondent No.2 : Mr. A.S. Jagtap h/f
Mr. N. S. Kadam

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

DATED : JANUARY 10, 2025

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

1. Respondent No.2 in the present matter has lodged First Information Report No. 0083 of 2023 on 28.05.2023 with Police Station, Ramthirth Taluka Biloli, District Nanded against the present applicants for the offences punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code. The First Information Report pertains to suicidal death of deceased Datta Wanole in the night intervening 27.05.2023 and 28.05.2023. Respondent No.2 is brother of the deceased. Respondent No.2 has stated that he and his deceased brother were owners of 11 Acres agricultural land. Five and half acres each came to their share in partition. Similarly, his cousin Maroti Baba Wanole, father of applicant No.1 had received 11 Acres of land in the partition. Maroti Baba Wanole had sold some portion of his land to applicant No.2 Saybu Metkar, likewise deceased Datta had also sold 69 Gunthas land out of his five and half acres land to one Bhaskar Patil Jiglekar around seven to eight days before lodging of the First Information Report. He states that there was boundary dispute in between the deceased and applicant Nos. 1 and 2 in relation to which complaints were lodged with respondent No.1 police station. It

is stated in the First Information Report that on 27.05.2023 at about 12 noon when respondent No.2 and his deceased brother were ploughing their field to prepare the same for sowing operation, the accused persons entered their agricultural land and asked the deceased to refrain from ploughing the land, stating that the said portion did not belong to him. It is stated that they had started abusing deceased Datta. Respondent No.2 states that he has intervened in the matter and suggested that accused should get their land measured. At that time applicant Nos. 1 and 2 rushed towards the deceased and asked him to leave the land, failing which they had threatened that they would kill him. Respondent No.2 states that they were afraid due to said incident and they left the agricultural land.

2. It is further stated in the First Information Report that in this back drop at about 9.00 p.m. deceased Datta left the house saying that he would return back after some time. However, he did not return. Respondent No.2 states that when he went towards the field he found that body of the deceased was hanging from Neem tree in their field. He attributed the cause of suicidal death of his brother deceased Datta to the applicants. On the basis of this report, the First Information Report came to be registered with respondent No.1 police station. Respondent No.1 has conducted investigation in the matter and has filed charge sheet in the Court of learned Judicial Magistrate First

Class, Biloli. The learned Magistrate committed the case to the Sessions Court and accordingly the matter is pending before the learned Sessions Judge, Biloli, District Nanded, vide Sessions Case No. 104 of 2023. The prosecution recorded statements of family members and other villagers during the course of investigation. The statements of family members are in tune with the First Information Report. The *post mortem* report confirms that the death has occurred due to hanging, the deceased has not left any suicidal note.

3. We have heard Advocate Mr. S.Y. Mahajan for the applicants, learned A.P.P. Mr. A.R. Kale for respondent No.1 and learned Advocate Mr. A.S. Jagtap for respondent No.2.

4. The learned Advocate for the applicants contended that the essential ingredients of Section 306 of the Indian Penal Code are not made out, taking the contents of the First Information Report and other material including the statements of witnesses recorded under Section 161 of the Code of Criminal Procedure on their face value. As against this, the learned A.P.P. and learned Advocate for respondent No.2 contend that the acts of the applicants, particularly applicant Nos.1 and 2 during the course of the incident that occurred on 27.05.2023 were instrumental in causing abetment to commit suicide to the deceased Datta and, therefore, the First Information Report and

resultant criminal prosecution cannot be quashed at this stage.

5. With the able assistance of the learned Advocates we have perused the First Information Report, statements in the charge sheet and other documents filed along with the charge sheet. It is apparent that the incident dated 27.05.2023 had occurred on account of boundary dispute between the deceased on one side and owner of the adjoining agricultural land i.e. applicants on the other. It appears that tempers had risen and applicant Nos. 1 and 2 had charged towards the deceased threatening to beat him. They had threatened to kill the deceased if he did not leave the field as per the allegations in the First Information Report. The deceased and his family members were afraid of them and left the agricultural land. These allegations in the First Information Report are repeated in the statements of witnesses recorded under Section 161 of the Code of Criminal Procedure. All these allegations taken on the face value and assumed to be true and correct, do not make out case of abetment of suicide. *Mens rea* is an essential element of the offence of abetment of suicide. The offence involves a mental process of instigating a person or intentionally aiding him in committing drastic act of taking his own life. Intention on the part of the accused of causing suicidal death is essential element of the offence. The prosecution must at least *prima facie* establish that the accused persons had an intention to bring about a

situation forcing the deceased to commit suicide. On examination of the entire material on record, we find that all these elements are pertinently missing in the present case. It transpires from the record that there was a boundary dispute between the rival parties. Both parties have their own version about the boundary separating their agricultural land. During the course of sowing operations one party i.e. applicants/accused became aggressive and threatened the other party i.e. family of deceased and respondent No.2. However, they did not physically attack any person although they threatened to kill the deceased and his family members if they enter the said portion of an agricultural land which the applicants claimed to be belonging to them. Such a quarrel and/ or a threat given due to such quarrel which occurred at the heat of the moment would not mean that the applicants desired or wanted that the deceased should commit suicide. The entire material even if assumed to be true and accepted in its entirety falls drastically short of bringing home any ingredients of Section 306 of the Indian Penal Code. In such circumstances, it will not be in the interest of justice to force the applicants to face criminal prosecution. We are, therefore, of the considered view that the First Information Report and resultant Sessions case are liable to be quashed. Hence, the following order

ORDER

(I) The application is allowed.

(II) The proceeding in Sessions Case No. 104 of 2023 pending before the learned learned Additional Sessions Judge, Biloli, District Nanded, arising out of First Information Report vide Crime No. 83 of 2023 registered with Ramtirth Police Station, Taluka Biloli, District Nanded dated 28.05.2023, for the offences punishable under Sections 306,504,506 read with Section 34 of the Indian Penal Code and the said F.I.R. are hereby quashed and set aside against all the applicants.

(ROHIT W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

Y.S. Kulkarni