



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

CRIMINAL APPLICATION NO. 3213 OF 2023

- 1] Baliram S/o Jemasing Chavan,
Age: 36 years, Occu: Labour,
- 2] Gayatri W/o Baliram Chavan,
Age: 32 years, Occu: Household,
Both R/o- Ratnagar Tanda, Jalgavhan,
Tq. Parali, Dist. Beed. **... Applicants**

Versus

- 1] The State of Maharashtra,
Through Police Station Sirsala,
Dist. Beed.
- 2] Ashok S/o Rama Rathod,
Age: 50 years, Occu: Agri
R/o Jetbala Tanda, Telgaon,
Tq. Dharur, Dist. Beed. **... Respondents**

...

Mr. Krushna S. Solanke, h/f Mr. A. V. Lavte, Advocate for Applicants.
Mr. V. K. Kotecha, APP for Respondent No.1 / State.
Mr. Mahesh P. Kale, Advocate for Respondent No.2.

...

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

DATE : 05th March, 2025.

J U D G M E N T : (Per Sanjay A. Deshmukh, J.)

. Rule. Rule made returnable forthwith. With the consent of the learned Advocates appearing for the parties, heard finally at the stage of admission.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973, for quashing the proceedings in R.C.C. No.227 of 2023, pending in the Court of learned Judicial Magistrate First Class, Parli, District Beed, arising out of First Information Report (for short "FIR") in Crime No.78 of 2023, dated 14th May, 2023, registered with Sirsala Police Station, District Beed, for the offences punishable under Sections 306, 323 and 504 read with 34 of the Indian Penal Code, 1960 (for short "IPC") and the consequential charge-sheet.

3 It is averred in the report by respondent No.2 / informant that he and his wife Usha have three sons. He has five brothers and three sisters. All the siblings are married and residing separately. About ten years ago, his sister Shalubai married with Balasaheb Jemasing Chavan. Balasaheb is the brother of applicant No.1

(Baliram Chavan). It is alleged that five years ago, Balasaheb and Baliram started residing separately. Balasaheb's parents continued to reside with Balasaheb. They were having eight acres of agricultural land. Balasaheb got a land, but it was not equal to that of his brother (Baliram). Therefore, there was dispute between both the brothers. Balasaheb and his wife (Shalubai) were saying that though they got equal land in the partition, the same is in the name of Baliram (brother of Balasaheb). It is further alleged that one year ago, Balasaheb cultivated sugarcane crop in two acres of land. The total yield was approximately 100 tons. Since the land was in the name of Baliram, the sugar factory credited the harvested sugarcane in Baliram's name. Therefore, the entire amount of that sugarcane crop was taken by the applicants (Baliram and his wife Gayatri). Balasaheb and his wife Shalubai frequently demanded that amount. However, Baliram did not pay that amount. Therefore, quarrel continued between them for about 1 and ½ years. On 11th May, 2023 around 05:00 pm, informant's sister (Shalubai) went to Baliram and his wife Gayatri for demanding that amount. However, the applicants refused to pay that amount. They abused and slapped her. They expelled her from there, saying that she was not entitled to any money. Because of that, Shalubai came to her house and consumed poison. When Balasaheb returned home from the market, he saw that Shalubai had consumed

the poison. He, therefore, took her to the Government Hospital at Ambajogai for treatment. Despite undergoing treatment at hospital, Shalubai died on 14th May, 2023 at 07:45 am. Thereafter, report was lodged against the applicants that they had abetted Shalubai for the commission of suicide.

4 The learned counsel for the applicants submitted that there is no evidence against the applicants of either beating, abusing or abetment by instigation to commit suicide. The applicants are falsely implicated in the crime. It is a dispute of civil nature. He lastly prayed to allow the application by quashing the proceedings and the report.

5 The learned APP for the State and the learned counsel for respondent No.2 strongly opposed the application and submitted that the names of the applicants are mentioned in the report. They have instigated Shalubai for commission of suicide. Only because of the applicants' abetment and instigation Shalubai committed the suicide. They lastly prayed to reject the application.

6 We have perused the report, charge-sheet and the grounds raised in the application.

7 From statements of witnesses, it appears that one and the same story is stated by the witnesses. Cause of death is shown as “Opinion reserved pending for chemical analysis report in a clinically diagnosed and treated case of chlorpyrifos + cypermethrin compound consumption”. The witnesses have stated that because of frequently demanding the amount of sugarcane crop and refusing to pay that amount on the part of applicant No.1, the quarrel took place between them. The mother of the applicants, namely, Pankabai Chavan, intervened and compromised the matter. However, in the evening Shalubai committed suicide by consuming the poison.

8 We may take note of the decision in the case of ***Monica Kumar (Dr.) and another Vs. State of Uttar Pradesh and others***, reported in, ***(2008) 8 Supreme Court Cases 781***, in which the Honourable Supreme Court held that, the parties have exchanged their counter-affidavits and rejoinders. Indisputably, there is no quarrel with the well-settled principles of law that while exercising powers under Section 482 CrPC, the High Court does not function as a court of appeal or revision. Inherent jurisdiction under the section though has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down

in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which courts exist. When the complaint is sought to be quashed it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

9 In the case in hand also, either from the report or the statements of witnesses, it is not establishing that the applicants instigated or abetted Shalubai to commit suicide. Shalubai committed suicide for the alleged dispute regarding agricultural land and the amount of sugarcane crop. It is a monetary dispute of a civil nature. Thus, the essential ingredients of abetment by instigation as contemplated by Section 107 of the IPC are not establishing against the applicants to constitute the offence under Section 306 of the IPC for abetment to commit suicide. In such circumstances, in absence of evidence of abetment to commit suicide, if the applicants are asked to face the trial, it would certainly be an abuse of the process of Court. We are, therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. Hence, the following order:-

ORDER

I. The application is allowed in terms of prayer clauses (C), (D-I) and (D-II).

II. Rule is made absolute in the above terms.

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

nga