



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3965 OF 2023

- 1) Bansi S/o Bapu Khutekar,
Age-65 years, Occu:Agri.,
R/o-Georai Bashi, Taluka-Paithan,
District-Aurangabad,
- 2) Ashok S/o Bansi Khutekar,
Age-40 years, Occu:Agri.,
R/o-Georai Bashi, Taluka-Paithan,
District-Aurangabad,
- 3) Machindra S/o Bapurao Khutekar,
Age-55 years, Occu:Agri.,
R/o-Georai Bashi, Taluka-Paithan,
District-Aurangabad,
- 4) Manoj S/o Bapu Khutekar,
Age-44 years, Occu:Agri.,
R/o-Rahulnagar, North Jaikwadi,
Paithan, Taluka-Paithan,
District-Aurangabad,
- 5) Dipak S/o Bansi Khutekar,
Age-35 years, Occu:Agri.,
R/o- As Above,
- 6) Vikas S/o Bhausahab Khutekar,
Age-34 years, Occu:Agri.,
R/o-As Above,
- 7) Sindhubai W/o Machindra Khutekar,
Age-55 years, Occu:Household,
R/o-Georai Bashi, Taluka-Paithan,
District-Aurangabad,

- 8) Ravindra S/o Ramesh Khutekar,
Age-35 years, Occu:Agri.,
R/o-Georai Bashi, Taluka-Paithan,
District-Aurangabad,
- 9) Meenabai W/o Ramesh Khutekar,
Age-55 years, Occu:Household,
R/o-Georai Bashi, Taluka-Paithan,
District-Aurangabad,
- 10) Archana W/o Ravindra Khutekar,
Age-35 years, Occu:Household,
R/o- As Above,
- 11) Bhausaheb S/o Bapurao Khutekar,
Age-64 years, Occu:Pensioner,
R/o-Rahulnagar, Jaikwadi, Paithan,
Taluka-Paithan, District-Aurangabad,
- 12) Rani W/o Vikas Khutekar,
Age-28 years, Occu:Household,
R/o-Rahulnagar, Taluka-Paithan,
District-Aurangabad,
At present R/o-Beed By-pass,
Behind Registry Office, Aurangabad.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
- 2) Arun S/o Sheshrao Khutekar,
Age-44 years, Occu:Private Coaching,
R/o-Georai Bashi, Taluka-Paithan,
District-Aurangabad,
At present R/o-Bhakti Shobha
Apartment, Talegaon Dabhade, Pune.

...RESPONDENTS

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Mr. Imran Khan Guftar Khan Durrani Advocate for Applicants.
Mr. G.A. Kulkarni, A.P.P. for Respondent No.1.
Mr. S.B. Parnere Advocate for Respondent No.2.

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

DATE : 3rd JULY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashing the proceedings in R.C.C. No.331 of 2023 pending before the learned Judicial Magistrate First Class, Paithan, District-Aurangabad, arising out of the First Information Report (for short "the FIR") vide Crime No. 204 of 2022, registered with Police Station, M.I.D.C., Paithan, Taluka-Paithan, District-Ahmednagar for the offence punishable under Sections 306, 143, 447, 323, 504, 506 of the Indian Penal Code, and for quashing the consequent proceedings in Sessions Case No.38 of 2024 pending before the learned Additional Sessions Judge, Aurangabad.

2. Heard learned Advocate Mr. Durrani for the applicants, learned APP Mr. Kulkarni for respondent No.1 and learned Advocate Mr. Parnere for respondent No.2.

3. Learned Advocate for the applicants has taken us through the entire charge-sheet including the FIR. He submits that in the

FIR which was lodged on 31st August 2022, there is absolutely no mention of suicide note left by the deceased. However, when his supplementary statement came to be recorded on 5th September 2022, the informant has stated that there was a chit left by his father before committing the suicide, in the pocket of his pant. Therefore, whatever chit has been recovered, is doubtful. He further states that in the FIR as well as the entire charge-sheet, it can be seen that the fact which is not disputed is that there is dispute in respect of immovable property i.e. agricultural land, between the applicants and the deceased father of the informant. The dispute is pending with Paithan Court as well as Paithan Tahsil Office, since last eight months prior to the incident. It is then stated that on 24th August 2022, around 5.30 p.m. all the accused persons unauthorizedly entered the agricultural land, assaulted the deceased Sheshrao, abused and gave threats to kill him. The dispute is stated to have been resolved by one Gaurav Khutekar and Gautam Khutekar. No offence came to be registered on the basis of that incident but then it is stated in the FIR and the charge-sheet that the accused persons had entered the agricultural land belonging to the deceased with J.C.B. and Tractor on 30th August 2022 and started digging activities by making encroachment on the agricultural land. On that day also

no offence was immediately lodged. Later on in the supplementary statement an improvement has been made that deceased had not gone to the local police station due to the fear of the police officer Nagargoje but went to the office of District Superintendent of Police, Aurangabad (Rural). Of course that was another incident, which has been improved wherein it is stated that some of the accused persons had rushed towards deceased as well as his sister-in-law Kantabai while abusing them. The informant then states that he along with Kantabai, had gone to M.I.D.C. Police Station, Paithan to lodge the report and behind their back, the applicants entered the agricultural land with J.C.B. and Tractor. All the family members of the applicants are falsely involved. The statements of the witnesses are stereo typed and therefore with this evidence it cannot be stated that the applicants had abetted the commission of suicide. There could not have been any intention of the applicants, even if we take the acts alleged as it is, that deceased should commit suicide.

4. Learned Advocate for the applicants, in support of his submissions, relies on the decision in ***R.S. Shashirekha vs. State of Karnataka, 2025, SCC OnLine SC 671, Jaydeepsinh Pravinsinh***

Chavda and others vs. State of Gujarat, (2025) 2 SCC 116, Mahendra Awase vs. State of Madhya Pradesh, (2025) 4 SCC 801.

5. Learned APP for respondent No.1 and learned Advocate for respondent No.2 strongly opposed the application and submitted that all the acts which are direct or indirect amounting to abetment are required to be considered. Harassment by the applicants was to such an extent and so continuous that deceased felt that he has not been left with any other option but to commit suicide. The spot panchnama has been carried out on 31st August 2022, itself between 9.30 am. to 10.15 a.m. In the spot panchnama itself it has been stated that the suicide note which was found in the pocket of the pant of the deceased has been seized. Therefore, there is no question of improvement by the informant in respect of the suicide note. The inquest panchnama, statements of witnesses and the postmortem report would establish that death of Sheshrao was due to hanging. The suicide note has been sent for analysis to the handwriting expert and the report is yet to arrive. Therefore, taking into consideration the contents of the suicide note as it is, it can be seen that all the acts of the applicants and how they have been

protected by Tahsildar, Police Officer has been stated. There was no order in favour of the applicants, still they were entering the field of the deceased time and again in order to grab the land. The deceased was an agriculturist and therefore, the land was near to his heart. Various applications which deceased had written to Tahsildar regarding the activities of the applicants, copy of which have been collected and they have been made part of the charge-sheet. Therefore, this is not a fit case where the Court should exercise its powers under Section 482 of the Code of Criminal Procedure.

6. Here, it is to be noted at this stage that there is no dispute of the fact that Sheshrao has committed suicide by hanging on 31st August 2022, around 6.30 a.m. The spot panchnama was carried out between 9.30 a.m. to 10.15 a.m., in which it has been specifically stated that a suicide note has been found in the pocket of the pant of the deceased. It is a long suicide note giving details as to how he felt harassed. The said fact is also stated by the informant in his FIR as well as his supplementary statement, as well as by the other witnesses, some of whom are the relatives of the deceased. Statements of employees from revenue department have also been taken, wherein it is stated

that time and again the deceased had given applications. Of course they have stated that certain action was taken by the revenue officers, which deceased disputes. Further, it appears that application under Order 39 Rules 1 and 2 of the Code of Civil Procedure, filed in Civil Suit bearing No.217 of 2022, came to be rejected on 5th August 2022. It appears to be the fact that there was boundary dispute also and the measurement was to be made. There is a document i.e. notice issued by Tahsildar, Paithan to the deceased stating that applicant - Bhausahab Bapu Khutekar and others have made an application to Tahsildar for the measurement, fixing of boundaries and then laying a pakka road on the boundary of land Gut No.236. It is stated in the said notice that the measurement procedure has been completed through Taluka Inspector of Land Records, Paithan and the action of giving possession would be taken up within seven days and therefore, Sheshrao was called upon to give his say. It appears that he has given the say objecting the same. He has certainly taken the objection regarding the jurisdiction of Tahsildar to give the possession. This notice appears to have been issued on 17th May 2022 and as aforesaid it appears that the temporary injunction application was rejected by the Civil Judge, Junior Division. Still when the objections raised by the plaintiff were

sub-judice in the suit, the Tahsildar should not have proceeded. Further, how he can give possession of any piece of land to anybody, would be a question. If it was an application by applicant No.1 for making him road available under the Maharashtra Land Revenue Code, then the proceedings should have been undertaken under the said Code. There is no stipulation of pakka road to be given. If it was stated that the pakka road to be given then unless the land is acquired, it could not have been given. Therefore, certainly the frequent incidences and the acts stated, which we are considering prima facie, appears to have led the deceased to commit suicide.

7. We are aware about the legal position as stated in decision of *Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh, 2002 Cri.L.J. 2796; Madan Mohan Singh vs. State of Gujrat and another, reported in (2010) 8 SCC 628; S.S. Chheena vs. Vijay Kumar Mahajan reported in 2010 All MR (Cri) 3298 (S.C.)., Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi) (2009) 16 SCC 605, Swamy Prahaladdas vs. State of M.P. & Anr. , 1995 Supp. (3) SCC 438, Mahendra Singh vs. State of M.P., 1995 Supp.(3) SCC 731, Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618, State of Kerala and others vs. S.*

Unnikrishnan Nair and others, reported in AIR 2015 Supreme Court 3351. However, in this case there are peculiar circumstances which require evidence to be adduced and role of each of the applicant would then be clear. Ultimately those activities which are alleged to have been committed by the applicants amounted to abetment or not, would be considered by the trial Court, but at the cost of repetition, we would say that there is evidence to the effect that such incidences were alleged and resisted by the deceased. Therefore, we do not find this to be a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure.

8. The Application stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JULY25