



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.4153 OF 2023**

Vijay Narayan Jadhav,  
Age-40 years, Occu:Cook,  
R/o-Wadgaon Kolhati,  
Taluka and District-Aurangabad.

**...APPLICANT**

**VERSUS**

1) The State of Maharashtra,  
Through the Police Officer,  
Daulatabad Police Station,  
Taluka and District-Aurangabad,

2) Manisha Nagnath Thakur,  
Age-30 years, Occu:Household,  
R/o- Gut No.12, Plot No.32-A,  
Wadgaon Kolhati,  
Taluka and District-Aurangabad.

**...RESPONDENTS**

...  
Ms. Sunita G. Sonawane Advocate for Applicant.  
Mr. V.K. Kotecha, A.P.P. for Respondent No.1.  
None present for Respondent No.2.

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

**DATE : 25<sup>th</sup> JUNE, 2025**

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

1. Present Application has been filed, initially for quashing

the First Information Report (for short "the FIR") vide Crime No. 137 of 2023 registered with Daulatabad Police Station, District-Aurangabad, on 16<sup>th</sup> August 2023, for the offence punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code, and later on by way of amendment for quashing the proceedings in R.C.C. No. 1803 of 2024, pending before the learned 18<sup>th</sup> Judicial Magistrate First Class, Aurangabad.

2. Heard learned Advocate Ms. Sonawane for the applicant and learned APP Mr. Kotecha for respondent No.1.

3. Learned Advocate for the applicant has taken us through the contents of the FIR and submits that the informant is a wife of the deceased Nagnath. Nagnath was working as stores corporate in-charge in Dhananjay Auto Private Limited at M.I.D.C., Waluj. He was in need of money and therefore, he had taken hand loan of Rs.1,00,000/- from one Hukum Salampure and Rs.50,000/- from the present applicant. She states that her husband was paying the amount towards interest per month to both these persons from whom the amount was taken. However, the financial condition of deceased further deteriorated and therefore, he was unable to pay the amount towards even

interest since 3 to 4 months prior to the FIR. She states that these two persons i.e. Hukum Salampure and the applicant were abusing her husband Nagnath and were insisting that he should pay the amount of interest or return the entire amount or he should transfer the R.C.C. house of Nagnath situated at village Wadgaon Kolhati, in the name of these two persons. They were giving threats to him. Nagnath had told all these facts to the informant - wife Manisha. Manisha had then told her husband that after they get the amount, they would return it to them and he should not take tension. Nagnath left house around 11.00 a.m., on 23<sup>rd</sup> July 2023 and told that he would return within two hours. He was in tension at that time. Around 12.12 p.m., informant gave a call to husband and asked about his whereabouts and told that he should not take tension, he should explain the situation to the company officer. Thereupon, the husband told her that he has informed the said fact to Rahul Mogale and he told that since it was Sunday, they would go to the police station on next day. Around 12.40 p.m., Nagnath sent his live location from his mobile to the informant, wherein it was seen that Nagnath was in Karodi area. Informant gave him message around 13.58 hours, as to whose location it was and why he was not receiving the call. The said message was read,

however, her phone call was not received. The informant became suspicious and called her brother Gulabsing Rajput. Thereafter she went along with her brother, to Karodi Naka as per the location but then the location was towards Bhangsi Mata Gad. They could spot the motorcycle of her husband and upon search it was found that Nagnath has hanged himself to a tree. She started crying and then few people gathered there. The police were called and then the body of Nagnath was taken down. He was taken to Ghati Hospital, however, he was declared dead. After the last rituals were performed, informant checked the mobile of Nagnath and in the 'Notes' application, she could find the suicide note stating that the present applicant and said Hukum Salampure are responsible for his death.

4. Learned Advocate for the applicant submits that even if we take the case as it is, it can be seen that there is an inordinate delay in lodging the FIR which has not been explained and there are no acts of abetment those have been stated. Demand of the amount which was lent by the applicant, cannot amount to abetment as he was only insisting for the return of amount and no coercive method was adopted by him. Therefore, it would be an abuse of process of law to ask the applicant to face the trial.

As the offence is not made out, the FIR and the further proceedings need to be quashed and set aside.

5. Per contra, the learned APP strongly opposed the Application and submitted that in the FIR it is stated as to how the abetment has been caused. Simple demand of money is a different aspect but if that is insisted with some coercive method or along with it some illegal demand has been made, then certainly it would have put pressure on the deceased and therefore, let there be a trial.

6. Learned Advocate for respondent No.2 was absent.

7. Here it is to be noted that even from the contents of the FIR and the material in the charge-sheet, whether the ingredients of the offence are made out or not, is required to be considered. No doubt, the FIR is not an encyclopedia, but the informant is the person who had the knowledge about the transaction, as per her contention, and being wife of the deceased she was aware about the things. No doubt, there appears to be suicide note left in the mobile phone by the deceased. However, it is the same and he has stated that he has taken hand loan from one Hukum Salampure and present

applicant and due to their harassment he has committed suicide. Neither in the said suicide note (taken as it is) nor in the FIR it is stated as to when the amount was taken as hand loan. Now the informant says that it was taken few months prior to the FIR. The FIR has been lodged on 16<sup>th</sup> August 2023. She also states that her husband was paying the amount of interest per month, but he was unable to pay the same since 3 to 4 months prior to the FIR. Under such background, as to when that amount was taken as hand loan, is a question. Further, what was the interest rate that was agreed, has also not been stated. What was the salary of her husband and how the interest amount was paid till 3 to 4 months prior to the FIR, ought to have been stated since it was within the knowledge of the informant. If the amount of hand loan has been taken, then certainly Nagnath was duty bound to repay the same. It is also an admitted fact that he has not paid single penny since 3 to 4 months prior to the FIR. Therefore, if the applicant was insisting upon the repayment of the amount, then it cannot be stated that it amounts to abetment. Now, it is stated that it was insisted by the present applicant as well as Hukum Salampure that Nagnath should either give the interest amount or repay the entire amount or give his house. That means, they had given options. It appears

to be exaggerated version that along with these options, those two persons had then given threat that they will not leave Nagnath or will eliminate him. If he would have been eliminated by the applicant and Salampure, then how they would have recovered their amount. It was in fact in their own interest that they should not do any such act which would take the life of Nagnath. If such threats were given, then it was easy for Nagnath to lodge report with police, but the informant has not stated that any such report was given to police. When those threats were given, where those were given etc., has been kept in dark. Now, the informant has stated that the acts of threat and insistence for repayment of money by the applicant were told by deceased to her. That means, she had no first hand information in respect of the same. In other words, in her presence no incident about demand of amount and/or threat to Nagnath by the applicant had happened.

8. In order to prove abetment to commit suicide as contemplated under Section 306 of the Indian Penal Code, the prosecution will have to prove Section 107 of the Indian Penal Code. The law on this point has been summarized by the Hon'ble Apex Court in *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, Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh, 2002 Cri.L.J. 2796; Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi), (2009) 16 SCC 605, 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.)., State of Kerala and others vs. S. Unnikrishnan Nair and others, reported in AIR 2015 Supreme Court 3351.*

9. In *M. Mohan vs. State, Represented by the Deputy Superintendent of Police, (2011) 3 SCC 626*, the Hon'ble Apex Court has observed that, abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. In order to convict a person under Section 306 of the Indian Penal Code there has to be a clear *mens rea* to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a

position that he/she committed suicide. It has been further observed that when there is no proximate link between the suicide and the event when deceased was tortured on some pretext or other, then it does not amount to abetment.

10. Thus, taking into consideration the factual aspects as well as the legal requirement, we are of the opinion that the FIR appears to be lodged with some *mala fide* intention. The husband of the deceased appears to have duped the applicant or in order to avoid the repayment of amount he might have taken the extreme step and now the allegations have been made against the applicant. The so-called acts of the applicant do not amount to abetment. The case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure. Hence, we proceed to pass following order:-

### **ORDER**

(I) The Application stands allowed.

(II) The proceedings in R.C.C. No. 1803 of 2024 pending before the learned 18<sup>th</sup> Judicial Magistrate First Class, Aurangabad, arising out of the the First Information Report vide Crime No. 137 of

2023, registered with Daulatabad Police Station, District-Aurangabad, on 16<sup>th</sup> August 2023, for the offence punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant - Vijay Narayan Jadhav.

**[SANJAY A. DESHMUKH]**  
**JUDGE**

**[SMT. VIBHA KANKANWADI]**  
**JUDGE**

asb/JULY25