



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 742 OF 2024

Munjaji Gyanoji Rodge

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. Sharad Solanke, Advocate h/f Mr. M.P. Kale, Advocate for applicant

Mr. N.D. Raje, A.P.P. for respondent no.1 – State

Mr. Ajinkya Joshi, Advocate for respondent no.2 (appointed through Legal Aid)

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CORAM : RAJNISH R. VYAS, J.

DATE : 25th MARCH, 2026

PER COURT :

. Heard.

2. This is an application for quashment of F.I.R., Final Report, registration of Regular Criminal Case and consequent order of taking cognisance at the behest of sole accused / applicant, who is proposed to be prosecuted for commission of offence punishable under Section 306 of the Indian Penal Code (hereinafter referred to as 'I.P.C.').

3. The F.I.R. in question was registered at the instance of one Chayabai Dattarao Nile against the present applicant on 02nd November, 2023. It is the case of prosecution in brief in the F.I.R. that her husband had

consumed poison on 13th October, 2023 and on 18th October, 2023 he died. Initially Accidental Death No. 33 of 2023 under Section 174 of the Code of Criminal Procedure was registered. Since the informant was not in fit mental condition initially, but thereafter she approached the police station on 02nd November, 2023 and ultimately the F.I.R. as stated above came to be lodged.

4. It is the case of present applicant/accused that he was acting as '*mukadam*' and had hired the services of informant and her husband/deceased for cutting the sugarcane. It is further alleged that for that purpose certain amount was given by the accused to them. It was alleged that the informant and her husband had completed the work and remaining amount of Rs.50,000/- was also returned to the applicant/accused.

5. It is further alleged in the F.I.R. that at the request of deceased / husband of informant, certain amount was given as a hand loan to the sugarcane workers, but same was not returned to the applicant, and therefore, the applicant was insisting that husband of the informant / deceased should repay the amount.

6. Narrating the history of the matter, further it is alleged by the informant that on 11th October, 2023, when she alongwith her husband was in the agricultural field at about 09:00 in the morning, the applicant came

and demanded amount of Rs.1 lakh from the husband of informant on the count that it was him, who had taken guarantee of return of the amount. The applicant further insisted that the amount be returned immediately either by selling the agricultural field or by borrowing the amount. Thereafter the applicant left.

7. On 13th October, 2023 again the applicant came, demanded the amount from the husband of informant, to which the husband of informant replied that since he has no money, he would recover it and return to the applicant. In spite it, the applicant repeated his demand and asked husband of informant to repay the amount. The request made by the informant was also ignored.

8. It is further stated in the F.I.R. that the applicant had taken the husband of informant on his motorbike for recovery of amount and dropped him at 02:30 noon, in the agricultural field. The informant alleged that at 02:45 noon, her husband fell in the agricultural field and it was noticed that one bottle containing fertiliser was lying near him. At that time husband of informant had stated to the informant that it is due to mental harassment meted out by the applicant for repayment of amount, he has consumed the poison. The husband of informant thereafter was taken to the hospital, who ultimately died on 18th October, 2023.

9. It is in this background, learned counsel for the applicant submitted that just because the applicant has demanded the amount and deceased has committed suicide, same would not constitute abetment in true sense. He further submitted that there is no overtact on the part of the applicant and he had just demanded the amount for which he was entitled. He thus contended that continuation of criminal prosecution would not be in the interest of justice.

10. Per contra, learned A.P.P. and learned appointed counsel for Respondent No.2 / informant have contended that the F.I.R. clearly makes out the ingredients of offence registered. They contended that repeated demands at the hands of the applicant has created such a situation which left the deceased with no option but to commit suicide. According to him, considering the proximity of death and the incident, criminal prosecution may be allowed to be continued.

11. With the help of respective counsels, I have gone through the record of the case.

12. For proving offence under Section 306 of I.P.C., help of Section 107 of I.P.C. is also required to be taken. Section 107 speaks about abetment, which reads as under :-

*"107. Abetment of a thing.—A person abets the doing of a thing, who—
 First.—Instigates any person to do that thing; or
 Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or
 Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing."*

13. The F.I.R. clearly shows that the applicant was demanding amount from the deceased. It is not even the case of prosecution that any weapon is used or deceased was assaulted for the same. The rightful demand for repayment of money, to which applicant is entitled, would not amount to abetment, as defined under the provisions of I.P.C. At this stage it is necessary to mention here that the Hon'ble Apex Court in case of ***Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh***, reported in ***2002 (5) SCC 371*** has observed as under :-

11. In Ramesh Kumar v. State of Chhattisgarh 2001CriLJ4724 , this Court while considering the charge framed and the conviction for an offence under Section 306 I.P.C. on the basis of dying declaration recorded by an Executive Magistrate in which she had stated that previously there had been quarrel between the deceased and her husband and on the day of occurrence she had a quarrel with her husband who had said that she could go wherever she wanted to go and that thereafter she had poured kerosene on herself and had set fire. Acquitting the accused this Court said:

"A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the court that a victim

committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged for abetting the offence of suicide should be found guilty."

14. Also in case of ***Gangula Mohan Reddy Vs. State of Andhra Pradesh***, reported in ***2010 (1) SCC 750***, the Hon'ble Apex Court has observed thus :-

"20. 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."

15. Perusal of aforesaid observations of the Apex Court would reveal that demand of money would not constitute ingredients of abetment under the provisions of I.P.C. The applicant would not have gained by the death of the husband of the informant. Just because amount was insisted to be returned immediately, same would not constitute the abetment as defined. The dispute was clearly of civil nature and there was no positive act on the part of accused to instigate in committing suicide.

16. It is thus crystal clear that ingredients of offences are not made out from the final report and accordingly continuation of prosecution would not be in the interest of justice and consequently following order is passed :-

ORDER

- (I) Criminal application is allowed.
- (II) First Information Report No. 206 of 2023 dated 02nd November, 2023 registered with Tadkalas Police Station, Dist. Parbhani for the offence punishable under Sections 306 and 506 of the Indian Penal Code and consequent proceeding i.e. R.C.C. No. 69 of 2024 and order issuing process dated 12th March, 2024 passed by the Judicial Magistrate First Class, Purna, Dist. Parbhani is set aside.

(RAJNISH R. VYAS, J.)

SSD