



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2477 OF 2024

1. Sanjay s/o Ishwar Bhosikar
2. Rajendra Ishwar Bhosikar
3. Varsha w/o Sanjay Bhosikar ... Applicants

VERSUS

1. The State of Maharashtra
Through the Station House Officer,
Police Station, Loha Dist. Nanded
2. Basweshwar Vyankatrao Bhosikar ... Respondents

Mr. P. R. Katneshwarkar, Senior Advocate i/by Mr. Shyamsundar B. Patil,
Advocate for the Applicants

Mr. S. M. Ganachari, APP for Respondent No.1 State

Mr. A. M. Gaikwad, Advocate for Respondent No.2

CORAM : NEERAJ P. DHOTE, J.

Dated : 7th May, 2026

PER COURT :-

1. This is an Application under Section 482 of the Criminal Procedure Code, 1973 (for short 'Cr.P.C.') for quashing the FIR bearing Crime No.58/2024 registered with Loha Police Station, District Nanded for the offences punishable under Section 306 of the Indian Penal Code, 1860 (for short 'IPC'), consequential criminal case bearing R.C.C. No. 153/2025 pending on the file of learned Judicial Magistrate, First Class, Kandhar and the order dated 04.07.2025 passed by the learned Trial Court taking cognizance.

2. The aforesaid crime is registered on the report lodged by the Policeman attached to Loha Police Station, District Nanded. It is the case of the prosecution that, as the deceased had sought the information under the Right to Information Act in respect of the Ashram School and College run by the Applicants and as the father of the deceased sat on the hunger strike against the Applicants, the deceased and his family members were being threatened and harassed. The deceased committed suicide by laying on the railway track on 19.02.2024 at Nanded Railway Station. The deceased was moved to the hospital for treatment. During the course of treatment, the deceased made an oral dying declaration to his brother stating that, he was fed up with the harassment at the hands of the Applicants, and therefore, had attempted suicide. Deceased died during the medical treatment. On the said report, the aforesaid crime came to be registered and after investigation, the charge sheet came to be filed.

3. Heard the learned Senior Advocate for the Applicants, learned APP for Respondent No. 1- State and learned Advocate for Respondent No.2-brother of the deceased. With their assistance, perused the papers on record.

(A) It is submitted by the learned Senior Advocate for the Applicants that, the oral dying declaration was omnibus and vague. The statement of the wife of the deceased recorded

during the course of investigation does not support the case of the prosecution. The statement nowhere shows that, the deceased was being harassed by the Applicants. The medical papers on record clearly go to show that the deceased was not in position to talk and this falsifies the prosecution case in respect of the oral dying declaration. The documents collected from the hospital during the course of investigation shows that, the deceased fell down on the railway track. He further submitted that accepting the case of the prosecution as it is, there is no case made out against the Applicant for the offence punishable under Section 306 of the IPC. Though the case was registered after the filing of the charge-sheet, no charge has yet been framed. Considering the material available on record, making the Applicants to face the trial would amount to abuse of process of law and the Application be allowed. He relied on the decisions in (1) **Prakash & others Vs. State of Maharashtra and Another, 2024 SCC OnLine SC 3835** and (2) **Mohit Singhal & Another Vs. The State of Uttarakhand & Others**, decided on 1st December, 2023 by the Hon'ble Supreme Court.

- (B) It is submitted by the learned APP that, though there is contrary material on record, the Applicants have remedy of approaching the trial court for discharge. The postmortem report shows the injuries on the dead body. The statements of the brother, father, and sisters of the deceased shows that, the deceased was under pressure and facing threats from the Applicants, and therefore, he took the extreme step of suicide.

There was litigation pending between the parties. He submitted that the Application be rejected and the prosecution be given a chance to prove the case.

- (C) It is submitted by the learned Advocate for Respondent No.2 that the place of occurrence was 33 Kms. away from Police Station where the crime was registered. The Applicants are the influential persons and they can manipulate the things. The statement of the deceased's brother should have been the FIR, however the same is made the statement under section 161 of the Cr.P.C. The Suit for damages was filed by the Applicants against the deceased. There was animosity between the Applicants and the deceased which led to the suicide. Considering the material available on record, the Application be dismissed. In support of his submissions, he relied on the judgments in the case of **Rajeev Kourav Vs. Baisahab and others** in Criminal Appeal No. 232 decided on 11th February, 2020 by the Hon'ble Supreme Court and **Manik B. Vs. Kadapala Sreyes Reddy & another** , 2023 LiveLaw (SC) 642.

4. In **Prakash (supra)** and **Mohit Singhal & Another (supra)**, the crime registered against the the accused therein was for the offence punishable under Section 306 r/w Section 34 of the IPC. Considering the earlier decisions and the material available on record, the proceedings were quashed by observing that the same would amount to abuse of process of law.

5. In **Rajiv Kourav** (supra) it is observed that it is no more *res integra* that powers under Section 482 Cr.P.C. to quash a criminal proceeding is only when an allegation made in the FIR or the charge sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under section 482 Cr.P.C. is to prevent the abuse of process of any Court or otherwise to secure the ends of justice. It is settled law that, the evidence produced by the accused in his defence cannot be looked into by the Court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that, the High Court cannot embark upon the appreciation of evidence while considering the petition filed under section 482 Cr.P.C. for quashing criminal proceedings. It is further observed that, it is clear from the law laid down by this Court that, if a *prima facie* case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.

6. In **Manik B.** (supra), it is observed that, the powers under Section 482 Cr.P.C. are to be exercised only if it finds that taking the case at its face value, no case is made out at all. Whether the testimony of the witnesses is trustworthy or not has to be found out from the examination-in-chief and the cross-examination of the witnesses when they stand in the box at the stage of such trial and such an exercise was not permissible while exercising the jurisdiction under Section 482 Cr.P.C.

7. There cannot be any dispute in respect of the principles laid down in the above referred judgments cited by both the sides. It is also settled position in law that, the prosecution should make out the *prima facie* case for which the offence was registered. In the case at hand, the offence was registered against the Applicant for the offence punishable under Section 306 of the IPC. Abetment is defined under section 107 of IPC.

8. In the case at hand, undisputedly, the deceased was an Advocate. There is also no dispute that the Applicant Rajendra and Applicant Varshatai had filed the Special Suit No. 18/2023 and 25/2023 against the deceased for damages and the same was pending before the concerned Court. The material available on record shows that, according to the brother, father and sisters of the deceased, the deceased stated to them in the Hospital that, he was fed up with the harassment by the Applicants and, therefore, he had jumped in front of the train. However, the medical papers, which are the part and parcel of the charge-sheet, go to show that, the deceased was not in a position to speak. The statement of the wife of the deceased, who had also gone to the Hospital when she came to know about the incident, shows that the deceased was not talking. Her statement further shows that, she did not hear of harassment to the deceased by the Applicants and had there being harassment, deceased would have told her and the deceased knew the law being a lawyer. Even if the the statement of the wife of deceased and medical papers of the deceased are ignored, the

oral dying declaration which was given to the brother, father and sisters of the deceased is clearly omnibus and vague. The same lacks the essential ingredients to attract the provisions of Section 107 of the IPC. There is no slightest material on record to show any proximity between the alleged harassment by the Applicants and the incident of suicide. Except the said vague and omnibus oral dying declaration, there is nothing on record in support of the case of the prosecution. Though the postmortem report shows the injuries on the deceased as mentioned in para 17 of the postmortem report, the same are inconsequential as it is the case of the prosecution that the deceased committed suicide by jumping before the train. There is no material of any nature to indicate that, the deceased had no other option but to commit suicide due to the alleged harassment at the hands of the Applicants. I find merit in the submission of the learned Advocate for the Applicants that, even if the case of the prosecution is taken as it is and accepted as it is, no *prima facie* offence under section 306 of IPC is made out against the Applicants.

9. Considering the facts and circumstances of the case and the material available on record, making the Applicants to face the trial would amount to abuse of process of law and therefore, this a case, where the exercise the powers under Section 428 of Cr.P.C. are to be exercised. Hence, the following order:

ORDER

The Criminal Application is allowed in terms of Prayer Clauses (B), (B-I) and (B-II), which read as under:

- (B) By appropriate writ, order or direction, the First Information Report in CR No.58 of 2024 registered at Loha Police Station, Taluka Loha, District Nanded under section 306 of the Indian Penal Code may kindly be quashed and set aside.
- (B-1) The Criminal Case R.C.C.No. 153/2025 pending before the Joint Judicial Magistrate First class Kandhar on the basis of charge sheet No.153/2025 dated 25-06-2025 filed by the Police of Loha Police Station in Crime No.58/2024 may kindly be quashed and set aside.
- (B-2) The order dated 4-7-2025 passed by the learned Judicial Magistrate First Class Kandhar on Exhibit 1 of Regular Criminal Case No.153/2025 taking cognizance of the offence under section 306, 34 of the Indian Penal Code by issuing summons to the Applicants/accused may kindly be quashed and set aside.

(NEERAJ P. DHOTE, J.)