

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 16<sup>th</sup> OF FEBRUARY, 2023**

**MISC. CRIMINAL CASE No. 46336 of 2021**

**BETWEEN:-**

- 1. MAYANK S/O PAWAN KUMAR PATODIA,  
AGED ABOUT 43 YEARS, OCCUPATION:  
BUSINESS 6-A NICCO HOUSE, 2 HARE  
STREET, (WEST BENGAL)**
- 2. PAWAN KUMAR S/O LATE SHRI KISHAN  
PATODIA, AGED ABOUT 67 YEARS,  
OCCUPATION: BUSINESS 6-A NICCO HOUSE,  
2 HARE STREET, (WEST BENGAL)**

**.....PETITIONERS**

***(BY SHRI ASHISH GUPTA, ADVOCATE )***

**AND**

- 1. THE STATE OF MADHYA PRADESH STATION  
HOUSE OFFICER THR. P.S. CHOTI GWALTOLI  
(MADHYA PRADESH)**
- 2. SMT. SARITA W/O LATE SHRI RAVINDRA  
JOSHI, AGED ABOUT 37 YEARS,  
OCCUPATION: HOUSEWIFE 501, URVARSHI  
COMPLEX, JAORA COMPOUND INDORE  
(MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI A. S. PARIHAR, PANEL LAWYER FOR RESPONDENT  
NO.1/STATE AND SHRI MANISH GUPTA, ADVOCATE FOR  
RESPONDENT NO.2/OBJECTOR )***

.....

*This petition coming on for admission this day, the court passed the following:*

**ORDER**

- 1] Heard finally, with the consent of the parties.
- 2] This petition has been filed petitioners under Section 482 of Cr.P.C. for quashing the charge-sheet filed in connection with Crime No.26 of 2018 registered by Police Station Chhotigwaltoli, Indore for an offence under Section 306 and 34 of IPC.
- 3] The case of the petitioners is that on 18.11.2016 at around 6:30 PM the deceased Ravindra Joshi set himself on fire by pouring kerosene on his body at Regal Circle, Indore. He was immediately taken to T. Choithram Hospital, but could not be saved and on 22.11.2016 he succumbed to the injuries. During the course of investigation, the statements of the family members of the deceased were recorded, including a dying declaration in which he has stated that he is being harassed by Pawan Patodia, Anil and Mayank.
- 4] This petition has been filed by Pawan and Mayank Patodia, both residents of Kolkata wherein it is stated that these accused persons have taken cotton bales through the deceased and had not returned the consideration of Rs.9 crores to him, which has led him to try to set him ablaze. Dying declaration of the deceased has been recorded on 18.11.2016.
- 5] Counsel for the petitioners has submitted that even assuming the case of the prosecution to be correct, by no stretch of

imagination, it can be said that the petitioners in any way abetted the aforesaid offence or instigated the deceased to commit suicide. It is submitted that the deceased was a broker, who had procured the cotton bales for the petitioners, who are in the manufacturing business. However, as the certain bales were found to be of substandard quality, after making the payment of Rs.16 crores, the remaining payment was withheld. Counsel has submitted that the payment of 16 crores by the petitioners is sufficient to hold that they have never had the intention to cheat the deceased in any manner.

6] Counsel has also submitted that even according to the statements of the family members of the deceased, it is apparent that the dispute was regarding a business transaction only and even if the deceased was aggrieved by the action of the petitioners, he could have filed an FIR or lodged a complaint against them or could have filed a civil suit also, but instantly he choose to commit suicide, which in itself is not sufficient to hold that the ingredients of Section 306 of IPC are present in the case. In support of his submission, Shri Ashish Gupta, has relied upon a decision rendered by the this Court, Principal Seat at Jabalpur in **M.Cr.C. No.8283 of 2018 (Shri Naresh Tiwari Vs. State of M.P.) dated 01.02.2019** wherein various decisions of Supreme Court have also been referred to.

7] Counsel appearing for the objector Shri Manish Gupta has opposed the prayer and it is submitted that no case for interference is made out as from the statements of the family members of the

deceased, it is apparent that the deceased was put on such a spot where he had no option left, but to commit suicide. It is further submitted that the cotton bales were supplied to the petitioners at the instance of the deceased only and subsequently neither the payment was made nor the bales were returned or proposed to be returned by the petitioners and since the deceased was being forced by the vendors of the cotton bales also to ensure payment of the cotton bales supplied to the petitioners, the ultimate pressure led to untimely demise of the deceased by suicide. In support of his submissions, Shri Manish Gupta has relied upon certain decisions of Supreme Court in the case of **Amit Kapoor Vs. Ramesh Chander and Ors.** passed in **Cr.A. No.1407 of 2012 dated 13.09.2012** relevant paras of the same are 13, 18, 22, and 26 and **The State of Madhya Pradesh Vs. Deepak** passed in **Cr.A. No.485 of 2019 dated 13.03.2019** relevant paras of the same are 11 (27.9), (27.13), 14 (19 22).

8] Heard counsel for the parties and perused the record.

9] The contention of the petitioners is that even considering the entire charge sheet, no case of abatement of suicide can be made out against the petitioners. The case of the petitioners is that they had purchased the cotton bales worth Rs.25 crores from Odisha and the deceased was only a broker in the said deal in which they have already paid a sum of Rs.16 crores but as some of the cotton bales were of inferior quality, they had to stop the payment of Rs.9 crores and the deceased was also aware of the said issue between the

parties and if aggrieved, he could have lodged a complaint against the petitioners or could have filed a civil suit also. Otherwise also the commission of the deceased was to be paid by the owners of the ginning mills and the petitioners cannot be held liable if the Mill owners were pressurizing the deceased.

10] From the record, it is found that the petitioners had purchased the cotton bales through the deceased Ravindra Joshi who set himself on fire by pouring kerosene on his body at Regal Circle, Indore. In his dying declaration, deceased Ravindra Gupta has alleged that he was being harassed by the petitioners, and one Anil as they were not paying Rs.9 crores towards the sale of cotton bales. These allegations have also been leveled by the family members of the deceased. The dying declaration of the deceased dated 18.11.2016 reads as under:-

“मरणासन कथन

चौईथराम हास्पीटल  
इन्दौर 18.11.2016  
9:50 पीएम

नाम:- रविन्द्र जोशी

पिता:- बेनीप्रसाद जोशी

जाति:- ब्राह्मण

उम्र:- 40 साल

निवासी:- 501 उर्वशी काम्पलेक्स, जावरा कम्पाउण्ड इन्दौर

प्रश्न:- तुम्हारे साथ क्या हुआ है।

उत्तर:- मेने आज दिनांक 18.11.2016 को लगभग 6:00 बजे अपने आप को रीगल चौराहे पर पेट्रोल डालकर आग लगा ली। पवन पटोदिया, अनिल, मयंक कलक्ता के है। तथा इन्होने मुझसे रूई की गढाने ले ली थी। 9.00 करोड रू. नहीं दिया। इसलिये मेने आत्महत्या तंग आकर करने का प्रयास किया।

प्रश्न:- तुम कहा हो।

उत्तर:- अस्पताल

पिडित द्वारा हस्ताक्षर नही किये। पुरा शरीर में पटटी लगी है।

हस्ताक्षर अपठनीय  
18.11.2016 – 10:00पीएम”

11] Whereas, Sarita Joshi, the wife of the deceased Ravindra Joshi has given a detailed statement u/s.161 of Cr.P.C. Which reads as under:-

“थाना छोटीगवालटोली, इन्दौर

दिनांक 12.02.2018

अप क्र. 26/2018

धारा 306,34 भादवि

नाम साक्षी – सरिता जोशी पति स्व. श्री रविन्द्र जोशी उम्र 39 साल व्यवसाय रूई की गठानो की दलाली निवासी 501 उर्वसी काम्पलेक्स 3 जावरा कम्पाउण्ड इन्दौर मो.नं. 9039114179.

ने पूछताछ पर बताया कि मैं 501 उर्वसी काम्पलेक्स 3 जावरा कम्पाउण्ड इन्दौर में परिवार के साथ रहती हूँ मेरी फर्म बेनी प्रसाद कॉटन की प्रोपराईटर हूँ जिसे घर से संचालित करती थी। जिसमें मेरा काम रूई की गठानो की दलाली एवं रूई की गठानो का इन्सपेक्सन का था। हमारी फर्म बेनी प्रसाद कॉटन का आफिस कांटाबाजी जिला बोलांगिर उडीसा मे वर्ष 2014 मे किराए से ली थी, वही पर रहते थे व वही से कांटन का सारा काम मेरे पति रविन्द्र जोशी किया करते थे। मेरे पति उडीसा की जिनिंग फ़ैक्ट्री नं. 01 साई संपत्त सीड्स नाम मालिक मधु बाबू 02 हनुमान कोटेक्स नाम मालिक केडिया 03 तनु श्री कांटन प्राईवेट लिमिटेड नाम मालिक बलराम 04 श्री शमलेश्वरी कांटन्स इण्डस्ट्रीज मालिक तरुण अग्रवाल 05 सिद्धार्थ कोटेक्स नाम मालिक गिरीराज राठी 06 मां मंगला काटंस प्राईवेट लिमिटेड नाम मालिक मोजीराम अग्रवाल 07 मां शमलेश्वरी काटन्स इण्डस्ट्रीज मालिक नाम चूडामणि कांटा 08 ओम आर्गनिक कांटन प्राईवेट लिमिटेड नाम मालिक अनिल बंसल 09 चेतनकुमार सुशीलकुमार नाम मालिक चेतन अग्रवाल 10 काटसिट उद्योग नाम मालिक शांतिलाल अग्रवाल 11 प्रतिमा ओर्गनिक एण्ड पेपर प्राईवेट लिमिटेड मालिक प्रभाकर मेहर, इन उपरोक्त फर्मो की रूई की गठानो को अशोका मल्टियान मिल्स लिमिटेड किरई, सुन्दरगढ उडीसा हेड आफिस 06 ए निम्पो 2 हरे स्ट्रीट कलकत्ता के मालिक पवन पटोदिया उनका बेटा मयंक व अनिल को जून 2014 मे करीब 25 करोड रूपए की रूई की गठानो को दलाली से दिलवाई थी जिसमें करीब 15 करोड रूपए पार्टियों के पैसे वापस दिए लेकिन शेष पेमेन्ट देना बंद कर दिया था तो मेरे पति ने पवन पटोदिया व मयंक पाटोदिया व अनिल पाटोदिया से बार बार रूपए मांगने पर उन्होने एक करोड रूपए और दिए, फिर 9 करोड रूपए बचने पर पाटोदिया ने बोला कि मिल मे काम नही हो रहा है जिनका पैसा है उनसे रूकने का बोल दो और उनसे थोडा समय मांगो करीब 11 माह बाद उक्त 11 फर्मो के मालिक रूई के विक्रेताओ ने मेरे पति को बार बार फोन करके एवं कभी कभी इन्दौर आकर अपने बचे हुए 09 करोड रूपए दिलवाने की मांग करने लगे तब मेरे पति ने पवन पाटोदिया मयंक पाटोदिया, अनिल पाटोदिया को कलकत्ता फोन करके बोला था कि बचे हुए 09 करोड रूपए आप जल्द से जल्द लौटाओ फ़ैक्ट्री वाले पैसे मांग रहे है। पवन पाटोदिया का मोबाईल नं. 9831888851 एवं मयंक पाटोदिया का मोबाईल नं. 9831888858 है। पार्टियों के पैसे वापस दिलाने के लिए मेरे पति कलकत्ता जाकर पवन, मयंक व अनिल पाटोदिया से मिले थे करीब 20-25 दिन कलकत्ता मे रूके थे, उन्होने बोला कि आप इन्दौर वापस चले जाओ अभी देने के लिए पैसे नही है यह बात मेरे पति ने मुझे इन्दौर आने के बाद बताई थी। कुछ समय बाद उक्त 11 पार्टियों मे से 01 पार्टी ओम आर्गनिक काटन प्राईवेट लिमिटेड के मालिक अनिल बंसल ने कलकत्ता की पार्टी अशोका मल्टियान प्राईवेट लिमिटेड के खिलाफ एवं मेरे पति के खिलाफ धोखा धडी का केस वर्ष 2015 मे थाना सदर जिला सुन्दरगढ मे दर्ज कराया था जिसकी जानकारी पवन पाटोदिया द्वारा मेरे पति को मिली पवन ने मेरे पति को बोला कि चिंता मत करो वकील सब देख लेगा उस

केस में मेरा नाम होने के कारण मेरे पति परेशान थे तो करीब 08-10 दिन के लिए उड़ीसा गए थे पैसों का तकादा करने पर पवन पाटोदिया ने मेरे पति को धमकी दिया यह बात मुझे घर आकर बताई थी जिसका शिकायत आवेदनपत्र अगस्त/सितम्बर 2015 में पुलिस थाना संयोगितागंज में दिया था, फिर भी बकाया रुपये 9 करोड़ नहीं मिले। मोबाईल फोन पर मुझे व मेरे पति को धमकी दी थी कि हम कौन लोग हैं तुम नहीं जानते तुम्हें पता भी नहीं चलेगा पूरे परिवार को कहां गायब कर देंगे इस प्रकार धमकी देकर आत्म हत्या करने के लिए मजबूर किया जिससे तंग आकर मेरे पति ने 18.11.2016 को शाम 18:30 बजे रीगल तिराहे पर स्वयं पर पेट्रोल डालकर आग लगा ली थी, उनकी इलाज के दौरान टी चौईथराम अस्पताल में दिनांक 22.11.2018 को मृत्यु हो गई थी इस प्रकार अशोका मल्लियान के मालिक पवन पाटोदिया, मयंक पाटोदिया, अनलि पाटोदिया ने मेरे पति को धमकी देकर प्रताड़ित किया एवं मेरे पति को आत्महत्या करने के लिए मजबूर किया जिसके फलस्वरूप उन्होंने आत्महत्या की यदि समय रहते शेष 09 करोड़ रुपए दे देते तो मेरे पति आत्म हत्या नहीं करते। इस घटना से मैं और मेरा परिवार बेसहारा होकर व्यथित है, यही मेरा कथन है।”

*(emphasis supplied)*

12] A bare perusal of the aforesaid statement also reveals that the deceased was being pressurized by the sellers of the cotton bales to ensure payment from the accused persons. This statement also reveals that the accused persons informed the deceased Ravindra Joshi that as there is no work in their mills hence ask the vendors to wait for some time and thereafter the said 11 cotton bales vendors started demanding their money from the deceased, either after coming to Indore or from phones.

13] Considering the case of the prosecution objectively, this court finds that the deceased was only acting as a broker in the deal between the petitioners from Kolkata who are the purchasers of the cotton bales, and the vendors of the cotton bales or the ginning mill owners at Odisha. There is nothing on record to show that how much brokerage the petitioner was being paid in this transaction. There is no document filed on record regarding the huge transaction in which the deceased had acted as a broker. It is also not known in

what manner the petitioners were pressurizing the deceased which may be said to be an act of abatement and merely a bald statement in this regard would not suffice to bring home the accused. It is also not known as to when was the last time before his death, the deceased had spoken to which of the accused persons, as no CDR or telephonic conversation is placed on record.

14] In the considered opinion of this court, non payment of money in a business transaction cannot be said to be an act of abatement of suicide. How a person deals and behaves in a particular situation differs from person to person, and depends a lot upon his or her's personal choices, attitude towards life and his surroundings.

15] This court does not doubt the mental pressure that the deceased must have reeled under while setting himself ablaze, but under the facts and circumstances of the case, he also had other choices left open to him before resorting to this extreme irreversible step, like raising a civil dispute or lodging a private complaint under Cr.P.C. Although, in every case of suicide, this can be argued that the deceased had other choices left open to him, but it depends on the nature of transaction and the material collected by the prosecution during the course of investigation and in the present case, the ingredients of abatement are altogether missing despite the dying declaration of the deceased.

16] In such circumstances, this court is of the considered opinion that the continuation of the criminal case against the petitioner



would only amount to misuse of the process of the court and would result in unnecessary waste of valuable time of the court and other resources to try the accused persons.

17] The reliance placed on the decisions of Supreme Court in the case of **Amit Kapoor Vs. Ramesh Chander and Ors. (supra)** and in the case of **The State of Madhya Pradesh Vs. Deepak (supra)** by the counsel for the objector is of no avail to the objector as these judgments are distinguishable on facts.

18] In view of the same, the charge sheet filed against the petitioners is hereby *quashed* and the petitioners are hereby discharged from the offences registered against them. The petition stands *allowed*.

**(Subodh Abhyankar)**  
**Judge**

Pankaj