

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29<sup>TH</sup> DAY OF MAY, 2020

BEFORE

THE HON'BLE MR.JUSTICE G.NARENDAR

CRIMINAL PETITION NO.3515 OF 2017

BETWEEN:

SRI. L. BHEEMA NAIK  
S/O LATE LAKSHAMANA NAIK  
AGED ABOUT 46 YEARS,  
RESIDENT OF NO.3,  
RAJARAJESHWARI BUILDING  
ATTUR LAYOUT, 4<sup>TH</sup> A CROSS,  
NEARBY SBI BANK, YELAHANKA,  
BENGALURU – 560 064.

... PETITIONER

(BY SRI PONNANNA A.S, ADVOCATE FOR  
SRI. H. V. MANJUNATH, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA  
CRIMINAL INVESTIGATION DEPARTMENT  
CARLTON HOUSE, PALACE ROAD,  
BENGALURU – 560001.
2. MAHENDRA K C,  
AGED 33 YEARS,  
S/O CHIKKAHOMBALE GOWDA,  
KADUKOTHANAHALLI VILLAGE,  
C A KERE, HOBALLI,

MADDUR TALUK – 571 428.  
DISTRICT MANDYA.

... RESPONDENTS

(BY SRI MAHESH SHETTY, HCGP FOR R1;  
KUMARI RAKSHA KEERTHANA.K, ADVOCATE FOR  
SRI.KEMPARAJU, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE COMPLAINT DATED 06.12.2016 FILED BY THE II RESPONDENT, FIR IN CR. NO 565/2016 PENDING ON THE FILE OF THE ADDL. CIVIL JUDGE (JR. DN) AND JMFC, COURT, MADDUR, MANDYA DISTRICT.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.11.2019, COMING ON FOR 'PRONOUNCEMENT OF ORDERS', THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Heard the learned Senior Counsel Sri.A.S.Ponnanna along with Sri.H.V.Manjunath, learned counsel for the petitioner, Sri.Mahesh Shetty, learned High Court Government Pleader for respondent No.1 and Kumari Raksha Keerthana.K, learned counsel for Sri.Kemparaju, learned counsel for respondent No.2.

2. The petitioner is before this Court praying for quashment of the complaint dated 06.12.2016 preferred by 2<sup>nd</sup> respondent and the proceedings

initiated pursuant to the complaint registered as crime No.565/2016, pending on the file of the II Addl. Civil Judge (Jr. Dn) and JMFC Court, Maddur, Mandya District.

3. The brief facts necessary for disposal of the petition are as under:

A complaint came to be lodged on 06.12.2016 by 2<sup>nd</sup> respondent alleging that his brother one K.C. Ramesh was employed as a Driver with the petitioner, who was then discharging duties as an Officer of the State Government as Special Land Acquisition Officer, Bengaluru. That the brother of the complainant was in the habit of visiting his native for two days in every month to meet his parents and his close friends one Shashi Kumar, resident of Shivapura and Kantharaju, resident of Geekalli Village. It is alleged that on 04.12.2016, the said K.C. Ramesh visited his native village along with his friend Shashi Kumar. He

enquired about the well being of his parents and in the course of a chit-chat with the complainant in the presence of said Shashi Kumar, he alleged that the petitioner had amassed wealth in excess of 100 crores and taking advantage of the ban imposed on use of currency of certain denomination was indulging in conversion of black money into white money and using the mobile banking facility of the deceased had transferred amounts to his relatives. That the deceased complained that the petitioner was constantly troubling him. He was using rowdies to threaten him as the petitioner apprehended that the deceased was aware of the petitioner's nefarious activities and suspected him of sharing the information with third parties and hence was not allowing him to lead a peaceful life. That thereafter, the deceased departed along with his friend Shashi Kumar and further informed that he would attend the marriage of a relative and that he would call him before leaving for Bengaluru.

4. That on the date of the complaint at about 1.30 p.m., in the afternoon, the friend of the deceased, Shashi Kumar called the complainant and informed him that the deceased was not opening the door of the room in the lodge and when contacted on the mobile phone, he appeared to be drunk and expressed a doubt that he must be having some issues. Stating so, asked the complainant to come immediately to the lodge, namely, Samrudh Lodge at Hosakoppa Circle, Shivapura.

5. That the complainant reached the lodge about 3.00 p.m., and met the said Shashi Kumar and both of them proceeded to Room No.14, where the deceased was staying. That the said Shashi Kumar informed the complainant that the deceased had told him that one Suresh, a friend of the deceased was arriving from Bengaluru and that the purpose of the visit was to discuss the nefarious activities of the petitioner and hence, he requested the said Shashi Kumar to organize

a room for him in any lodge and that accordingly the said Shashi Kumar had booked the room on 04.12.2016 and that the deceased occupied the room at 02.45 p.m. That the said Shashi Kumar and the deceased stayed in the room and that the deceased revealed that the petitioner and his driver one Mohammed had deceived him to believing them and thereafter, cheated him and that they were cut throats and have destroyed his life and further, the deceased apprehended that as he was aware of the accumulation of illgotten wealth by the petitioner, there is every possibility that the petitioner would have him murdered at the hands of the rowdies and thereafter, the deceased is said to have asked the Shashi Kumar to leave the room as he was expecting his friend Suresh from Bengaluru and hence, the said Shashi Kumar is said to have returned to his house.

6. It is further alleged that the said Shashi Kumar informed the complainant that on 05.12.2016 at 3.00

p.m., the deceased is said to have telephoned the said Shashi Kumar and asked him to bring lunch and accordingly, the said Shashi Kumar is said to have carried lunch and when he arrived at the room, the deceased informed the said Shashi Kumar that the said Suresh had not turned up and he asked the said Shashi Kumar to return home as his other friend Kantharaju was staying with him.

7. It is further stated by the defacto complainant that thereafter, he and the said Shashi Kumar met the Manager and the complainant is said to have informed the Manager that despite knocking on the door, his younger brother (the deceased) was not opening the door and the door appeared to be latched from inside and thereafter, with the assistance of the Manager the complainant used a ladder to peep into the room and could observe only the legs of his brother upon which, he got agitated and apprehending

something ominous has happened to his brother, asked the Manager to break open the door. Upon which the Manager is said to have informed the complainant that it is not proper for them to break open the door and asked the complainant to approach the Maddur Police Station and that he would break open the door in the presence of the police only, upon which the complainant visited the Maddur Police Station and returned to the lodge along with Police at 6.00 p.m. In the presence of the police, the door was broke open with an iron instrument and they found the deceased lying face-down and they suspected that he must have consumed poison and died but they found liquor bottle and a death-note and also found that the deceased had used his mobile to upload the death-note and post it on his Facebook page.

8. Lastly, it is alleged by the defacto complainant that as his deceased brother was aware of

the amassing of wealth of more than 100 crores and the alleged conversion of black money into white money and diversion of funds to the accounts of relatives of the petitioner by using the mobile banking account of the deceased and as the petitioner and his car driver had threatened that they would finish off the deceased by engaging rowdies, the life of the deceased had become miserable, hence, his brother committed suicide by consuming poison and further requested that action be initiated against the Special Land Acquisition Officer - L. Bheema Naik (petitioner) and his home car driver Mohammed and with the said allegations, the complaint came to be registered as FIR No.1305/2016 and as Crime No.565/2016.

9. On the above set of allegations, the Maddur Police registered a case for offences punishable under Sections 306 and 34 of IPC.

10. The learned Senior Counsel appearing for the petitioner would contend that even if the entire allegations as contained in the death note is appreciated, it nowhere discloses the ingredients necessary to constitute an offence under Section 306 of IPC. He would take this Court through the provisions of Section 306 of IPC which reads as under:-

***“306. Abetment of suicide***

*If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”*

11. The learned Senior Counsel would contend that the offence alleged against the petitioner is one of abetting the commission of suicide. He would then invite the attention of the Court to Section 107 of IPC and take this Court through the provisions of Section 107 of IPC, 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.”*

12. He would further invite the attention of the Court to Section 108 of IPC, which defines an abettor. Section 108 of IPC reads as under:-

***“108. Abettor***

*A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor”*

13. The learned Senior counsel elaborating further would contend that to implicate a person under

the provisions of Section 306 of IPC, it is necessary that the accused must have a motive and in the absence of *mens rea*, prosecution must necessarily fail. He would further contend that in terms of Section 107 of IPC, abetment would necessarily require an act of instigation by the abettor. That neither the death note nor the complaint disclose any act, which can by any stretch of imagination be construed as an instigation, nor is there an allegation in the complaint or the death note that the petitioner instigated the deceased to commit suicide.

14. He would further invite the attention of the Court to the contents of the complaint and contend that the same is riddled with inconsistencies and falsities.

15. He would invite the attention of the Court, in particular, to the long passage of time taken by the complainant to reach the Hotel. He would submit that even as per the complaint, the complainant received the information at about 01.30 p.m., in the afternoon but

even as per the complainant, he reached the lodge only at 03.00 p.m. He would submit that it would not take more than ten minutes for the complainant to reach the lodge from the place of his residence. That there is no explanation for the delay in intimating the police. He would further point out that the police reached the lodge only at about 06.00 p.m. He would submit that the said factual aspects require to be appreciated in view of the fact that the petitioner suspects the involvement of his rivals, who are inimically placed towards him and are unhappy with his rise in the ranks. He would further contend that the suicide is stage managed by his rivals and is an attempt that has gone awry and taking advantage of the same, the petitioner is sought to be implicated by rivals and vested interest.

16. He would further contend that the allegations contained in the death note are a bundle of lies and

despite investigation, the respondent police have not been able to unearth even a single corroborative material. That the investigation has not thrown up a single a piece of evidence, which can be construed as a necessary ingredient, material enough to demonstrate the culpability of the petitioner and which goes to constitute an offence under Section 306 of IPC.

17. He would submit that the instant case has been registered to wreak vendetta on the petitioner and has also become a hurdle in his career progression.

18. He would submit that the trial is rendered an empty formality in the lack of any corroborative material. He would further contend that the contents of the death-note clearly demonstrate a delusioned mind and a person, who is not in hold of his sanity. That the act of committing suicide is an insane act and clearly not at the instigation of the petitioner.

19. He would further contend that even assuming that the said Shashi Kumar had indeed called the deceased as stated by him at 01.30 p.m on 06.12.2016, and if the version of the prosecution that the deceased did speak to said Shashi Kumar and the above facts are considered in conjunction with the fact that he had consumed poison by then and if viewed conjunctively with the background of death note, a person, who is on the verge of his death would necessarily disclose the consumption of poison to a person, who is described as a close friend of the deceased. He would further contend that it would not be farfetched to presume that the story as narrated by the complainant is a concoction. He would also invite the attention of the Court to the statement in the complaint of one Kantharaju of Geekalli Village, having spent the night with the deceased.

20. He would further invite the attention of the Court to paragraph No.22 of the petition and would submit that the petitioner has clearly demonstrated the falsity of the allegations. He would contend that the mere fact that the police investigation has not revealed any of the alleged illgotten wealth, as stated in the death note, is suffice to draw an inference that the act is by a deranged mind. He would submit that there is not a single whisper in the death note that either the petitioner or any other person had asked him or instigated him to commit suicide nor does the note detail any act which pushed him to commit suicide.

21. The learned Senior counsel would take this Court to the ultimate paragraph in the death note and would submit that the same makes interesting reading as the same would reveal the presence of his friends and if appreciated in the proper light, it would reveal that the deceased is thanking his friends for their

assistance. If that be so, it is these persons, who ought to be held liable and implication of the petitioner is wholly without basis.

22. The learned Senior counsel has placed reliance on the ruling of the Hon'ble Apex Court rendered in the case of **Netai Dutta vs. State of W.B** reported in **(2005) 2 SCC 659**, and would refer to paragraph Nos.5, 6 and 7, which read as under:-

*“5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the workplace. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160, B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16-2-2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306 IPC would stand only if there is an abetment for the commission of the crime. The parameters of “abetment” have been stated in Section*

*107 of the Penal Code, 1860. Section 107 says that a person abets the doing of a thing, who instigates any person to do that thing; or 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, or the person should have intentionally aided any act or illegal omission. The Explanation to Section 107 says that any wilful misrepresentation or wilful concealment of a material fact which he is bound to disclose, may also come within the contours of “abetment”.*

*6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any wilful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.*

*7. Apart from the suicide note, there is no allegation made by the complainant that the appellant herein in any way was harassing his brother, Pranab Kumar Nag. The case registered against the appellant is without any factual foundation. The contents of the alleged suicide note do not in any way make out the offence against the appellant. The prosecution initiated against the appellant would only result in sheer*

*harassment to the appellant without any fruitful result. In our opinion, the learned Single Judge seriously erred in holding that the first information report against the appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein. We find that this is a fit case where the extraordinary power under Section 482 of the Code of Criminal Procedure is to be invoked. We quash the criminal proceedings initiated against the appellant and accordingly allow the appeal.”*

23. He would further place reliance on the ruling of the learned Single Judge of Gujarat High Court in the case of **A.K.Chaudhary and Another vs. State of Gujarat and Others** reported in **2006 Cri. LJ 726** and would invite the attention of the Court to paragraph Nos.8, 13, 14, 15, 16 and 36 to exercise of inherent power under Section 482 of Cr.P.C and the criteria for exercising the inherent powers vested in the Court, which reads as under:-

*“8. On behalf of the State and the Original Complainant, Mr. Kogje, learned APP, Mr. P.K. Jani, learned counsel and Mr. Bairavia, learned counsel appearing for the complainant in the respective petitions, inter*

*alia, submitted that there is prima facie material for showing commission of offence for abetment to Suicide and also for the alleged offence under Atrocities Act. It has been submitted on behalf of the respondents that in normal circumstances, as a responsible Officer of LIC, the suspension order could have been revoked and the representation made by the deceased could have been responded to by taking appropriate action. However, all omission were with the deliberate purpose of harassing the deceased who was Dalit and it has been submitted that the action of suspending and other departmental proceedings were coupled with the malice and, therefore, can be said as abetment to suicide. It was also submitted that the Atrocities Act is enacted with a view to provide additional safeguard to Dalit and if the purposive interpretation is made of the relevant provisions of Atrocities Act or of the allegations made in the complaint, it does make out a case prima facie for commission of offence under the Artrocities Act.*

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*13. In the decision of the Apex Court in case of Netai Dutta vs. State of West Bengal, reported in (2005) 2 SCC 659 : (2005 Cri LJ 1737), an employee of a company was transferred from one place to another and, he did not join. Thereafter, he sent a letter of resignation expressing his grievance against stagnancy to salary and unpleasant situation and the company accepted the resignation. Thereafter the said employee committed suicide and suicide note was found, alleging*

*in the note that Netai Dutta and, one Paramesh Chatterjee engaged him in several wrong doing, which was alleged as, torture and the brother of the deceased filed complaint, against Netai Dutta and others under Section 306 of IPC. The learned single Judge of the High Court of Calcutta declined to quash the complaint. In appeal, however, the Apex Court in SLP, while quashing the complaint, at paragraphs 5 and 6 observed as under:*

*“5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the work place. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160 B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16-2-2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306. IPC would stand only if there is an abetment for the commission of the crime. The parameters of the “abetment” have been stated in Section 107 of the Penal Code, 1860. Section 107 says that a*

person abets the doing of a thing, who instigates any person to do that thing: or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission taken place in pursuance of that conspiracy, or the person should have intentionally aided any act or illegal omission. The explanation to. Section 107 says that any willful misrepresentation or willful concealment of a material-fact which he is bound to disclose, may also come within the contours of “abetment”

(Emphasis supplied)

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any-act or incidence where by the appellant herein is alleged to have, committed any willful act or omission or intentionally aided or instigated the deceased) Pranab Kumar Nag to committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.”

The Apex Court thereafter at para 7, inter alia, observed that—

“7..... The prosecution initiated against the appellant would only result in sheer harassment to the appellant without any fruitful result. In our opinion, the learned single Judge seriously erred in holding that the first information report against the

*appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein.”*

*14. Thereafter, ultimately the exercise of the power under Section 482 of Cr. P.C. the criminal proceedings initiated against the appellant were quashed.*

*15. In case of Sanju alias Sanjay Singh Sengar v. State of M.P., reported in (2002) 5 SCC 371 : (2002 Cri LJ 2796), of course at the stage of quashing of the charge-sheet after referring to the earlier decision of the Apex Court in case of Swamy Prahaladdas v. State of M.P., reported in 1995 Supp (3) SCC 438; in case of Mahendra Singh v. State of M.P., reported in 1995 Supp (3) SCC 731 : (1996 Cri LJ 894); in case of Ramesh Kumar v. State of Chhattisgarh, reported in 2001 (9) SCC 618 : (2001 Cri LJ 4724), it has been further observed at para 12, inter alia, as under:*

*“12.....Even if we accept the prosecution story that the appellant did tell the deceased ‘to go and die’ that itself does not constitute the ingredient of ‘instigation’. The word ‘instigate’ denote incitement or urging to do some drastic or unadvisable & action or to stimulate or incite. Presence of mens rea therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with-mens rea.*

*(Emphasis supplied)*

*It is in a fit of danger and emotion Secondly, the alleged abusive words, said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging, on 27th July; 1998. Assuming that the deceased had taken the abusive language seriously he had enough time in between to think over and reflect and therefore, it cannot be said that the abusive language, which had been used by the appellant on 25th July, 1998 drove the deceased to commit suicide.*"

*(Emphasis supplied)*

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*In case of "Hans Raj v. State of Haryana", reported in (2004) 12 SCC 257 : (2004 Cri LJ 1759, Para 14), the Apex Court while considering the scope and ambit of section 306 of IPC at para 13, inter alia, observed as under:*

*13. One of the circumstances which has to be considered by the Court is whether the alleged cruelty was of such nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman.",*

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*Thereafter at Para 16, the Apex Court, inter alia, observed as under 2004 Cri LJ 1759:*

*"16..... All that was alleged in the FIR or even at the stage of investigation was that there were frequent quarrels between the husband and wife*

*sometimes resulting in physical assault, on account of the husband being addicted to consumption of 'Bhang'. The other allegation that the appellant was aggrieved of the fact that his sister Naro was not being properly treated by Fateh Chand, PW-3, brother of the deceased also appears to be untrue because there is nothing on record to show that there was any disharmony in the marital life of his sister Naro. In fact, Fateh Chand, PW-3, her husband, himself stated on oath that he was living happily with his wife Naro; sister of the appellant. On such slender evidence therefore we are not persuaded to Invoice the presumption under Section 113-A of the Indian Evidence Act to find the appellant guilty of the offence under Section 306, I.P.C."*

*16. The Division Bench of this Court in the case of State of Gujarat v. Sunilkumar Kanaiyalal Jani. reported in 1996 (2) GLR 797 : 1997 Cri LJ 2014, after taking into consideration the decision of the Apex Court in the case of Chanchal Kumari v. Union Territory, Chandigarh, reported in AIR 1986 SC 752 : 1986 Cri LJ 816, and after abstracting the relevant observations of the Apex Court in case of Sharad Birdhichand Sarda v. State of Maharashtra, reported in (1984) 4 SCC 116 : 1984 Cri LJ 1738 regarding the psychological aspects of the suicide, further observed at Para 8 in the said decision, inter alia, as under:*

*“8. If the evidence is viewed keeping such law in mind, we do not see any person to accept the contention advanced on behalf of the State and upset the finding of the lower Court. Simply someone comes before the Court and says that both the spouses were often quarreling is not sufficient because that would not clearly establish the knowledge or intention relating to the crime and proximate assistance. There may be difference of opinions. If on one or another issue the spouses are often quarreling it is the usual wear and tear of the married life, and certainly that would not lead any one to end his/her life. One would bring end of his/her life if he/she is put to the compelling or alarming circumstances with no opinion. The prosecution has, therefore, to show what was the apple of discord so as to determine about abetment. The case in general terms is no sufficient.(Emphasis supplied) Here in this case, it is not made clear as to what was the subject of quarrels on the day of the incident, what was the issue, who initiated the quarrel, in what context both were quarreling, and, who was at fault for, the quarrel. With regard to the past quarrels also it is ambiguously and in general terms alleged and stated that both were often quarreling, but it is not made clear in what, context, and who was at fault? The party at fault if ultimately facing frustration of his/her plan goes to the-*

extreme, i.e. suicide, the opposite party cannot be blamed and held liable. In different words, if extremity is one's own creation, and the opponent is blamed, it would amount to roguery supplants justice. (Emphasis, supplied) Nothing, can be inferred or assumed for or against the party or the Court cannot jump to the conclusion that husband is always at fault, and wife is the victim of the wickedness of the husband. As made clear by the Calcutta High Court in the case of Niharbala Banerjee, 1959 Cri LJ NOC 38 (supra), there is also no evidence about the knowledge and intention relating to the crime and proximate assistance; It is pertinent to note that the Calcutta; High Court has held to which we agree that merely on the fact that the husband was not treating the wife properly and was treating her with cruelty will not be sufficient to establish the abetment. (Emphasis supplied) In this case, even if on the basis of the evidence of the above referred witnesses it is assumed that respondent was often quarreling with the deceased, that will not amount to abetment for committing suicide; it might be owing to above quoted psychological factors and symptoms taking shape independent of abetment".(Emphasis supplied)."

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36. The learned counsel appearing for the petitioners as well as the respondent have made elaborate arguments on the aspects of power of the police to investigate in a case where FIR is registered in cognizable offence, As such on the said aspect, the position of law is settled by the Apex Court in case of “State of Haryana v. Ch. Bhajan Lal, reported in 1992 Supp (1) SCC 335 : AIR 1992 SC 604 : (1992 Cri LJ 527). In the said decision the Apex Court at para 108 has concluded as under:

“108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie

constitute any offence or make out a case against the accused.

2. Where the allegations in the First in-formation Report and other materials, if any, accompanying the FIR, do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
4. Where the allegations in the F.I.R. do not continue a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the

concerned Act, pro viding efficacious redress for the, grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

24. He would further rely on the observations in paragraph Nos.41, 50 and 51, which reads as under and would pray that the petition be allowed and the proceedings pending in Crime No.565/2016 be quashed.

“41. Therefore, merely because F.I.R., is registered of a cognizable offence, but if the allegations in the FIR, and other material do not constitute a cognizable offence, the same would not be sufficient ground for the police to proceed with the investigation, without there being any order of the Magistrate as per Section 155(2) of the Code. In view of the observations made by this Court that the allegations made in the FIR, even if they are taken on its face value and as the FIR, and other material do not constitute a case for commission of offence, it can be said that the police itself could not have proceeded with the investigation, without there being any order of the Magistrate, in view of the principles laid

*down by the Apex Court in case of “State of Haryana” (supra). How ever, as some of the observations were made, of course, at the stage of anticipatory bail application and at the stage of interim application by this Court in the proceedings of Criminal Misc. Application No. 10273/2004 and in Criminal Misc. Application No. 10553/2004 in Special Criminal Application No. 1176/2004. the action of the police at this stage of further investigation cannot be said as fully unjustified. In any event, in view of the observations made hereinabove that no case is made out for commission of offence for abetment to suicide and/or for of fences under the Atrocities Act, no investigation by the police in connection with the FIR would be called for.*

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*50. There cannot be a dispute to the proposition that “no one is above law”, but at the same time if the Court on merits finds that no case is made out for commission of offence as per law, it would be improper either to decline the relief merely on the ground that any party to the proceeding is holding high position in the organization or to grant relief merely on the ground that either party to the proceeding is lower in rank. In the system of administration of justice as per Constitution of India and law, such aspects have no legs to stand. Suffice it to say that this Court has to uphold the rule of law irrespective of the position of either of the parties to the proceedings before it. Therefore, the said*

*attempt of Mr. Jani cannot be entertained and deserves to be rejected at the outset only.*

*51. The aforesaid takes me to examine the aspects as to whether in such circumstances law provides for remedy or remedial measure or not? As per the complainant the deceased has put an end to life due to the departmental action of suspension and of inaction in revocation of suspension order and of issuing the charge-sheet and contemplating to hold departmental inquiry, whereas as per the accused officers the action is taken in discharge of the official duty and had the action not taken, the officers could have been charged with the derelictions of duty. Though in view of the observations made hereinabove, it may not amount to offence but the fact remains that there is a loss of life of the deceased, who was an employee of Life Insurance Corporation of India. The remedial measures under the Civil Law and Criminal Law are different. The different yardstick and the criteria prevails for commission of offence, prosecution and for imposing punishment upon a person when offence is committed but when even no offence is committed and in a case where the family members of the deceased are visited with the consequences to loss of life, it cannot be said that there is no remedy provided under the law. Under, such circumstances, there is a remedy provide as per the Civil Law for compensating to the death of the deceased. The principles of vicarious liability may also apply if ultimately it is proved that the loss of life is due to*

*inaction by the specified officers of LIC and not due to abnormal sentimental reaction of the deceased to the departmental proceedings. As such, even for finding the aforesaid aspects, full fledged opportunity is required to be given to both the sides namely; the relatives of the deceased may prove that the loss of life is due to inaction or so-called purported exercise of the power and the officers and also LIC itself may prove their defence that the so-called action for suicide and the loss of life is due to abnormal psychological reaction by the deceased to the departmental proceedings. All such aspects, if ultimately proved to the extent that the loss of life of the deceased is on account of any negligence in discharge of duty by the officers concerned of LIC, the dependent members of the deceased may get appropriate compensation. Therefore, there is a remedial measure provided under Civil Law for compensating to the loss of life to the deceased to the dependent members of the deceased. Since there is neither prayer, nor all parties to the proceedings, more particularly LIC is before the Court, I find it proper to leave the matter at that stage, leaving the parties to resort to appropriate remedy under Civil Law for compensation etc., due to loss of life to the deceased, as may be permissible in law.”*

25. Per contra, the learned High Court Government Pleader would oppose the petition and

would submit that the petitioner is required to face trial. The learned High Court Government Pleader would submit that the death note clinches the issue and that in the light of the law laid down by the Hon'ble Apex Court, exercise of inherent power vested in this Court is not warranted. The learned counsel for the defacto complainant would contend that interference is impermissible when the matter is pending investigation. The learned counsel for the respondent No.2 would place reliance on the ruling of the Hon'ble Apex Court rendered in the case of ***Munshiram vs. State of Rajasthan and Another*** reported in ***(2018) 5 SCC 678*** and in the case of ***Narayan Malhari Thorat vs. Vinayak Deorao Bhagat and Another*** reported in ***(2019) 13 SCC 598***.

26. In reply, learned counsel for the petitioner would invite the attention of this Court to the factual

matrix of *Munshiram's* case narrated in paragraph No.2

which reads as under:-

*“2. Before we analyse the case at hand, it would be necessary to observe the facts of this case which gave rise to the aforesaid FIR. The deceased son of the appellant herein (Brijesh Singh) got married to Respondent 2 wife (Khushboo) on 10-2-2008. From the aforesaid wedlock, the couple were blessed with a male child on 29-10-2009. It is to be noted that the wife on previous occasions had filed multiple complaints against her husband which were ultimately compromised. Moreover, the husband had also filed a complaint dated 13-7-2010 alleging atrocities committed by her and her family on the deceased and his family. On 7-3-2013, the respondent wife instituted another proceeding against the deceased. It is alleged that the deceased was under a constant fear of arrest and harassment because of false implication in criminal case. Thereafter a compromise is said to have been entered into between the deceased and the respondent wife, wherein he had promised not to repeat any of the aforesaid occurrences. Thereafter, the respondent again filed FIR No. 152 of 2013 against the deceased and the petitioner under Sections 147, 323, 341 and 351 IPC. It may not be out of context to mention here that the respondent wife also filed a domestic violence case against the deceased son of the appellant. It is alleged that on 8-7-2013, due to continuous humiliation and suffering inflicted upon by the wife and the accused*

*persons, the appellant's son (Brijesh Singh) committed suicide. Before committing the suicide, the deceased is said to have written two suicide notes which need to be recorded herein:*

**Suicide Note 1**

*My wife Khushboo and his parents and family members since after marriage are threatening me and my family saying that we are dacoits and we will kill you and also have filed false cases of dowry and domestic violence. My wife Khushboo has got an illicit relation with ..... living in her neighbourhood and ..... others also keep on facilitating/helping them.*

*My wife, my in-laws and these boys are intending to grab the factory and house of my parents, this is why they keep on torturing us and do not allow me and my parents to meet my son. Me and my parents are in deep agony since after my marriage. The total investment in the factory is done by my father and I have not contributed any penny. I love my wife and my child very much but she does not have any affection either for me and my parents so, her parents keep on threatening us and keep on filing false complaint and are trying to grab the house and factory by implicating my parents and my sister in false cases (sic)*

*(redaction supplied)*

**Suicide Note 2**

*My wife Khushboo under the influence of ..... living in her neighbourhood, ..... her parents and other in-laws has got filed a false case against me, my parents and my sisters. Due to which I am in deep mental stress. I am committing suicide. All these are conspiring to grab the house and factory of my parents. My parents are old and they may kindly be helped. The complete investment in the factory is done by my father after his retirement. I do not have any contribution in it. My wife wants to flee away to Delhi after grabbing all these and every day she keeps abusing us and also threatens to get us killed. She does not let us meet my son. I have always loved my wife. She has always betrayed me. She may be removed from the house of my parents. Safety of my parents be ensured (sic)*

*(redaction supplied)*

27. He would contend that the said case is distinguishable and is inapplicable to the facts of the instant case. Elaborating further, he would submit that, unlike in the case on hand, the suicide note clearly detailed the harassment meted out by the accused and also detailed the motive. Further, the Hon'ble Apex Court has also taken note of numerous complaints

lodged by the accused wife and inlaws and in those set of facts and in the light of the fact that investigation was thwarted at the threshold itself, the Hon'ble Apex Court deemed it appropriate to interfere and set aside the order of quashment. Insofar as the second citation relied upon i.e., **(2019) 13 SCC 598**, he would submit on similar lines. He would invite the attention of the Court to paragraph No.2 wherein the facts leading to the suicide have been stated by the Hon'ble Apex Court in a nutshell, which reads as under:-

*"2. The aforesaid FIR No. 35 of 2015 was lodged with Police Station, Washim on 14-2-2015 pursuant to information received from the appellant. It was alleged that the son and daughter-in-law of the appellant were teachers in a village in a Zila Parishad School where the first respondent was also a teacher; the first respondent used to call on the mobile of the daughter-in-law of the appellant and used to harass her; that despite the efforts of the son of the appellant in trying to make the first respondent see reason and stop calling said daughter-in-law, the first respondent continued calling her repeatedly; that on 9-2-2015 there was a verbal altercation between said son and the first respondent and that on 12-2-2015 said*

*son committed suicide leaving a suicide note. True translation of said suicide note is to the following effect:*

*“Sir Police Station Officer, I humbly request that my family life has been ruined by Vinayak Bhagat & therefore he should not be pardoned this is humble request & he should be hanged till death this is my last wish.”*

28. Further the Hon’ble Apex Court has also taken into consideration the reasoning of the High Court while rejecting the anticipatory bail application and would submit that a reading of paragraph Nos.2, 3, 4 and 5 would suffice to demonstrate that the said case is distinguishable from the case on hand as it is the primary contention that neither details of harassment nor any act, which would amount to instigating the deceased to commit suicide have been narrated in the alleged death note. That the Hon’ble Apex deemed it appropriate to interfere in the matter of quashing the investigation in the circumstances noted therein. Learned counsel would submit that in the instant case,

not a single act which can be construed as an instigation to commit suicide has been narrated except for stating that he apprehended that the petitioner would have the deceased killed at the hands of rowdies. He would further contend that assuming the same to be true, it is mere a verbal threat and if the same was real, the deceased who has written a 12 pages death note would have definitely given the details like timing and place when the threat was made.

29. He would submit that despite that the death note being 12 pages, the allegation which is a stray sentence is now sought to be blown out of proportion. He would contend that for a person, who has narrated details of numerous transactions, it is but natural to expect the person to narrate the details of the threat also. He would contend that the omission of the deceased to narrate any details of the threat cannot be glossed over as the suicide was not an act of momentary

provocation by any act of the petitioner or of act attributable to the petitioner and that writing 12 pages would have taken considerable time and it would have been but natural for the author of the death note to set out the details. That the only allegation of note is the allegation that the petitioner demanded for repayment of Rs.8 lakhs. Even with regard to the said allegation, the details of the demand as to the timing and place are not set out. He would further submit that the death note does not reveal that indeed rowdies were set upon him or that he was attacked by any rowdies or that he had received threat calls. In the absence of such overt acts, it can by no stretch of imagination be argued that the petitioner has acted in a manner which abetted the commission of suicide. The above contention merits consideration.

30. On perusal of the rulings relied upon by the respondents as stated supra, it is clear that the Hon'ble

Apex Court opined that the judgments of the High Court warranted interference in the light of the availability of the *prima facie* materials, which have not been appreciated by the High Court and also the fact that the orders curtailed any investigation. In the light of the above, it is but necessary for this Court to examine if there is any *prima facie* material, which would require investigation and mandate that the petitioner-accused stand trial to enable the prosecution to demonstrate his guilt.

31. This Court has closely scrutinized the death note. The deceased has written a detailed death note consisting of 21 numbered and one unnumbered paragraphs. Out of 22 paragraphs, 20 paragraphs pertain to alleged dealings and the only probable portion of the death note, which could be relied upon to establish the culpability of the petitioner are paragraph

No.21 and subsequent unnumbered paragraph, which read as under:-

‘21) ಈ ಎಲ್ಲಾ ಕಾರಣದಿಂದ ನನ್ನಗೆ ಇವರ ಎಲ್ಲಾ ವಿಷಯಗಳು ತಿಳಿದಿರುವ ಕಾರಣ ನನಗೆ ಕೊಲೆ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. ನನಗೆ ಮಾನಸಿಕವಾಗಿ ಬಹಳ ತೊಂದರೆ ಕೊಟ್ಟಿರುತ್ತಾರೆ ಆದ ಕಾರಣ ನಾನು ವಿಷ ಸೆವಿಸಲು ನಿರ್ಧರ ಮಾಡಿದ್ದು ನನ್ನ ಸಾವಿಗೆ L ಭಿಮಾನಾಯ್ಕ, K.A.S ಮತ್ತು ಅವರ ಮನೆಯ ವಾಹನ ಚಾಲಕ ಮಹಮ್ಮದ್ ಕಾರಣ ಎಂದು ತಿಳಿಸುತ್ತಾನೆ.

ನನ್ನ ಸಾವಿಗೆ ಕಾರಣಕರ್ತರು  
L ಭಿಮಾನಾಯ್ಕ, K.A.S  
ವಿಷೇಶ ಭೂ ಸ್ವಾಧೀನ ಅಧಿಕಾರಿ  
ಬೆಂಗಳೂರು ಹಗೂ ಮನೆಯ ವಾಹನ ಚಾಲಕ, ಮಹಮ್ಮದ್.

Ramesh K.S  
(ರಮೇಶ, ಕೆ.ಸಿ)  
ವಿ.ಭೂ.ಆ.ಕಛೇರಿ,  
ವಾಹನ ಚಾಲಕ  
ಬೆಂಗಳೂರು 06.12.2016

ಈ ಎಲ್ಲಾ ವಿಚಾರಗಳು ನನಗೆ ತಿಳಿದಿರುವ ಕಾರಣಕ್ಕೆ ಕೊನೆಯ ಕ್ಷಣದಲ್ಲಿ 8 ಲಕ್ಷ ರೂ ಕಡಿಮೆ ಇದೆ ಎಂದು ನನಗೆ ಧಮಕಿ ಹಾಗಿ 8 ಲಕ್ಷ ಕೊಡು ಇಲ್ಲಾವೆಂದರೆ ನಿನ್ನನ್ನು ರಾಡಿಗಳಿಂದ ಕೊಲೆ ಮಾಡಿಸುವ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾನೆ. ಈ ಎಲ್ಲಾ ವಿಷಯಗಳಲ್ಲಿ ನಾನು ಮನನೊಂದು ವಿಷ ಕುಡಿಯಲು ತಿರ್ಮಾನಿಸಿರುತ್ತೇನೆ. ನಾನು ಅನುಭವಿಸಿರುವ ಮಾನಸಿಕ ಯಾತನೆ ಇನ್ನಾರಿಗೂ ಬೇಡ ದಯಮಾಡಿ ಭಿಮಾನಾಯ್ಕ ಮತ್ತು ಅವರ ಮನೆಯ ವಾಹನ ಚಾಲಕ ಮಹಮ್ಮದ್‌ರನ್ನು ಕರಣ ಶಿಕ್ಷೆಗೆ ಗುರಿಪಡಿಸಬೇಕೆಂದು ಕೋರುತ್ತೇನೆ. ಹಾಗೆ ನನಗಾದ ನೋವು ಯಾತನೆ ಯಾವ ಚಾಲಕರಿಗೂ ಬೇಡ, ನನ್ನ ಈ ತಿರ್ಮಾನಕ್ಕೆ ನನ್ನ ತಂದೆ, ತಾಯಿ, ಅಕ್ಕ ಭಾವ, ಅಣ್ಣ ಅತ್ತಿಗೆ, ಹಾಗೂ ನನ್ನ ಪ್ರಿಯ

ಮಾರ್ಲಿ ಮನೋಜ್ ಗೌಡರಿ ಕ್ಷಮೆ ಕೊರುತ್ತೇನೆ. ನನ್ನ ಜೀವನದ ಕೊನೆ ಆಸೆ.  
ನನ್ನ ಅಕ್ಕನ ಮಗ ಮನೋಜ್ ಗೌಡನೆ, ನನ್ನ ದೇಹಕ್ಕೆ ಅಗ್ನಿ ಸ್ಪರ್ಶ ಮಾಡಬೇಕು  
ಇದು ನನ್ನ ಕೊನೆಯ ಆಸೆ ಹಾಗೂ ನನ್ನ ಜೊತೆ ಸಹಕರಿಸಿದ ನನ್ನ ಸ್ನೇಹಿತರಿಗೆ  
ನಾನು ಅಬಾರಿಯಾಗಿರುತ್ತೇನೆ.

ನನ್ನ ಈ ಸಾವಿಗೆ ಕಾರಣಕರ್ತರು.

L ಭಿಮಾನಾಯ್ಕ, K.A.S ಇವರು ಮತ್ತು ಇವರ ಮನೆಯ ವಾಹನ  
ಜಾಲಕ ಮಹಮ್ಮದ್ ಇವರೇ ನೇರ ಕಾರಣ ಹಾಗೂ ನನಗೆ ಬರಬೇಕಾದ 3  
ತಿಂಗಳ ಸಂಬಳವನ್ನು ತಡೆಹಿಡಿದಿರುತ್ತಾರೆ.

Ramesh K.C

(ರಮೇಶ, ಕೆ.ಸಿ)

ವಿ.ಭೂ.ಆ.ಕಛೇರಿ,

ವಾಹನ ಜಾಲಕ

ಬೆಂಗಳೂರು 06.12.2016

ನಾನು ನನ್ನ ಕೈಯಾರೆ ಬರೆದಿರುವ

ಡೆತ್ ನೋಟ್

Ramesh K.C

(ರಮೇಶ, ಕೆ.ಸಿ)

ವಿ.ಭೂ.ಆ.ಕಛೇರಿ,

ಬೆಂಗಳೂರು 06.12.2016

32. In paragraph No.21, a bald statement is made stating that because he is aware of all the above transactions, he was given a death threat. In the next sentence, he states that he has been psychologically/emotionally troubled and hence, he is

consuming poison and that the petitioner and his driver alone are responsible. For a person, who has detailed 20 transactions, it can be prudently expected of such a person to give details of the threat.

33. In the next unnumbered paragraph, a totally different story/note is set out as a reason for the petitioner threatening the deceased. In the unnumbered paragraph, he states that there was shortage in the cash to the tune of Rs.8 lakhs and that the petitioner suspected him as being responsible for the same and hence, threatened him that if the deceased did not repay said Rs.8 lakhs, he would have the deceased killed at the hands of rowdies. Thereafter, in the next sentence he states that in view of the same, he has decided to consume poison and that the petitioner and his driver are responsible for the same.

34. In paragraph No.20, the deceased holds the petitioner responsible for withholding the salary for the

last three months. The other paragraphs including paragraph No.20 detail the properties said to have been amassed by the petitioner and other illegal transactions. After having perused and scrutinized the death note, a query was put to the learned High Court Government Pleader and the counsel appearing on behalf of 2<sup>nd</sup> respondent as to whether the investigation has thrown up any material that corroborates any of the allegations set-out in the death-note. The learned High Court Government Pleader would fairly submit that they have not been able unearth any material to corroborate any of the allegations.

35. On the other hand, this Court has perused paragraph No.22 of the petition. In paragraph No.22, the petitioner has clearly detailed as to when, how and by whom certain properties have been acquired. Though the petition is preferred on 18.04.2017, till today no statement of objections have been preferred by the

respondents. Neither during the course of hearing, the counsel for respondent No.2 has been able to point out any error in the pleadings at paragraph No.22. In short, the respondents including the investigating agencies have not placed any other material, which in any manner corroborates any one of the allegations of giving of life threat or of amassing illegal wealth.

36. Assuming for arguments sake that the petitioner had indeed amassed huge wealth, whether it can be said it can be the ground for a person to commit suicide or whether the act of amassing huge wealth can be construed as an act amounting to instigation, instigating another person to commit suicide.

37. It is not the case of the deceased that the accused had deprived him of his wealth or have committed acts that have shattered his hopes in life or separated him from his family and friends.

38. The facts are not in dispute that the deceased was employed in Bengaluru and would visit his native for 2 days in a month and spend time with his family and friends. Similarly, he has arrived in his native in the usual course, two days prior to committing suicide. The complaint details the activities of the deceased until the time of his death. The complaint discloses that the deceased met the complainant at 09.00 a.m. on 04.12.2016 and visited his parents. Thereafter is said to have narrated about the petitioner accumulating illgotten wealth and is said to have expressed an apprehension that as he is aware of the acts detailed in the death note, he is likely to be done away by the petitioner and his private driver. It is also stated that thereafter, he is said to have accompanied his friend and it is also stated that he is attending a marriage ceremony in the village and that he is also expecting another friend by name Suresh from Bengaluru to discuss about the alleged dealings indulged into by the

petitioner. From the above narration, it is apparent that the fulcrum of the case as against the petitioner is the death note.

39. As discussed above, the death note contains no incriminating statement or material except for a bald and vague statement but that the accused had threatened him. Even the complaint does not disclose any details of the alleged threat nor does the complaint state that the deceased had on multiple occasions complained of having received threats from accused. Even the allegation of the demand for repayment of Rs.8 lakhs rings hollow as neither the prosecution nor the defacto complainant have been able to place an iota of material that the deceased was or had in fact been in possession of huge sum of money.

40. It is also relevant to note that no act, with any proximity to the time of death is alleged against the petitioner. There is no material to demonstrate that the

deceased was still working with the petitioner. Assuming the allegation of demand of Rs.8 lakhs is correct, for arguments sake, it would have been natural for the petitioner to attempt to restrain the deceased from leaving Bangalore in order to ensure recovery of the alleged money. The investigation has not thrown up any material regarding use of the deceased's mobile banking facility for transfer of funds. This would have been the most direct and clinching evidence to atleast some credibility to the allegation that the deceased was aware about the petitioner's nefarious activities. Neither the death-note nor investigation reveal even a threat-call to the deceased. Even assuming the threat, alleged in the death note is true, for arguments sake, it would be nigh impossible to demonstrate the same as the only witness who could speak about the same is the deceased. The same is further compounded by the absence of details of the alleged threat to finish off the deceased. If the deceased was indeed deeply disturbed

by the life threat, he would have necessarily related the details of the same either to the defacto complainant/elder brother or to his friends. Even assuming, for arguments sake, that a death threat was given, what is required to be examined is the nature of the threat. Whether it is of such alarming proportions that it would drive a normal person to naturally think that he has no way out and contemplate suicide in order to avoid a gruesome death or torturous death at the hands of vicious persons. No such detail is forthcoming. It is not even the statement that he was threatened with a gruesome death.

41. It is also necessary to examine and appreciate the conduct of the deceased prior to commission of the act. Even as per the complaint, his visiting his native was in the usual course. It is not the case of the prosecution that the deceased was running away from or escaping the petitioner or his henchmen, but as is

his habit, to visit his parents and to spend time with his friends. If the deceased had really felt threatened, he would have definitely approached the police. It is not that he was naïve or not worldly-wise. If his employment with the petitioner was true, then the Police Commissionerate was only a stone's throw away. It is not that the deceased was a weakling. The deceased by profession, is a driver. A profession where, accidents causing loss of life and limb are a daily occurrence and every driver is aware that he could be involved in an accident at any time.

42. The fact that he was consuming alcohol on both days is forthcoming. The fact that he was drunk when contacted is also forthcoming. These only reflect a scenario, where the deceased was not in hold of his senses. It is possible that his senses, in the grip of intoxicants, failed to act sanely.

43. His act of attending a relatives marriage in a different town and his interacting with friends and relatives are all actions of a normal person and not of a person under severe duress. The contention that this criminal case would jeopardize his career progression also cannot be brushed aside. It is also not forthcoming as to how he sourced the poison.

44. Hence, this Court is of the considered opinion that there is no ground to permit further prosecution of the petitioner. If the prosecution is permitted to proceed further, it would a travesty of justice and be a sheer waste of time. That apart the petitioner would be required to undergo the rigors of a lengthy trial. Hence, this Court is of the opinion that the instant case is a fit case for exercising the inherent powers vested in this Court under Section 482 of Cr.P.C.

45. Accordingly, the complaint dated 06.12.2016 and the proceedings initiated pursuant to the complaint

registered as Crime No.565/2016, pending on the file of the II Additional Civil Judge (Jr. Dn) and JMFC Court, Maddur, Mandya District stands quashed.

**Sd/-  
JUDGE**

dn/-  
CT-HR