



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 35 OF 2024

SHAKIL AHEMAD SIDDIQUI
AND
AMIR SHAKIL SIDDIQUI
VERSUS
THE STATE OF MAHARASHTRA

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Shri V.D. Sapkal, Senior Advocate i/by Shri Vishal Amritlal Bagdiya, Advocate for the Applicants/ accused.
Shri A.A. A. Khan, APP for the Respondent/ State.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 03 September 2026

P. C. :-

1. By this revision application, the applicants/ accused challenge the impugned order dated 01.01.2024 passed by the learned Additional Sessions Judge, Vaijapur, below exhibit 17 in Sessions Case No.26/2019 thereby, rejecting the application exhibit 17 for discharge. The said sessions case is in pursuance of FIR No.331/2017 registered with the Gangapur Police Station on 14.08.2017 by the informant Vedvikas Lalbahadursingh Gautam, for the offences punishable under Sections 306, 504, 506 r/w 34 of the Indian Penal Code and under Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014.

2. According to the prosecution, the informant, namely, Vedvikas Lalbahadursingh Gautam lodged the report on 14.08.2017 alleging that the applicants/ accused Nos.1 and 2 along with other accused persons have given loan amount to the tune of Rs.1 crore approximately to the informant (Vedvikas Gautam) and his brother, namely, Vedprakash Gautam. The accused persons have started demanding the said amount, however, the informant and his brother faced too many hardships in their life and they could not repay the said amount. Due to the said non-payment, the applicants along with other accused persons alleged to have harassed the informant and his brother mentally and physically. It is alleged that the amount was spent by them towards the expenditure of their father's health. Subsequently, they also tried to repay the loan amount by selling the godown and office premises. However, despite aforesaid arrangement, the amount could not be repaid and therefore, the applicants along with other accused used to harass them mentally and physically. It is alleged that on 09.08.2017, both the informant and his brother were proceeding to Pune in Tavera car. Their car stopped on the Godavari bridge at Kaygaon Toka. In view of the mental harassment, both the brothers i.e. the

informant and his brother Vedprakash, jumped into the river. Though the fisherman brought them out of the river, however, the informant's brother Vedprakash died due to drowning, whereas the informant survived.

3. On the basis of aforesaid statement, the aforesaid crime was registered and the criminal law was set into motion. After completion of investigation, the charge sheet was filed against four persons and the case is committed to the Sessions Court and registered as Sessions Case No.26/2019. The applicants/ accused filed the application exhibit 17 for discharge, however, same came to be rejected by the impugned order dated 01.01.2024.

4. Shri Sapkal, the learned Senior Advocate appearing for the applicants/ accused, submits that the report discloses that the transaction took place in the years 2013 and 2014 and the deceased committed suicide in the year 2017. The date of transaction as well as the date of incident speaks volumes regarding how the applicants/ accused have been implicated. There is no instigation and abetment in the instant case and according to the learned Senior Advocate, the allegations in the

complaint are patently absurd and inherently improbable and unworthy of acceptance.

5. The learned Senior Advocate submitted that applicant No.1 has purchased residential house property at MIDC Waluj industrial area by way of registered deed of assignment dated 04.01.2016. At the time of said deed of assignment, the complainant and his deceased brother has attested the said deed of assignment as witnesses. Despite the aforesaid fact, the sale deed copy was not handed over to the present applicants by the vendor. In spite of payment of all consideration amount by way of cheque, applicant No.1 considering the humanity, allowed the vendor to stay in the premises till April 2016. The mother of the complainant, namely, Champadevi was not vacating the said premises, therefore, applicant No.1 had requested the mother of the complainant to vacate the house. However, instead of vacating the house, the mother of the informant and her family members threatened the applicant that they will indulge the applicants in false case. Therefore, applicant No.1 has immediately filed the complaint in respect of the said incident with MIDC Waluj Police Station, Aurangabad, on 09.06.2016.

6. According to the learned Senior Advocate Shri Sapkal, the incident of suicide took place on 09.08.2017, however, the FIR came to be lodged on 14.08.2017. Thus, the delay of 5 days in lodging the complaint has not at all been explained by the complainant. He further submitted that on careful perusal of the entire charge-sheet, no criminal offence whatsoever is made out against applicant Nos.1 and 2. The charge-sheet is filed in absence of the basic facts and ingredients to constitute the criminal offence and that is clearly an abuse of process of criminal law. The informant has lodged the complaint with an ulterior motive. The allegations are totally fabricated and concocted with a view to harass and humiliate the applicants. The applicants are not having any concern with any transaction as alleged in the complaint. The applicants have also never stated to have approached to the complainant or his brother for any type of demand of interest or principal amount as alleged in the complaint. Thus, according to Mr. Sapkal, learned senior counsel, from bare perusal of the entire charge-sheet, there is no material to proceed against the applicants for the charges leveled against them and therefore, he prayed for quashing and setting aside the impugned order of rejection of their discharge and further prayed

for discharging the applicants from the instant offences/crime.

7. On the other hand, the learned APP strongly opposed the instant revision application. He submits that there is sufficient material so as to prosecute the applicants. The applicants have alleged to have harassed the informant and his brother to such an extent that no option was left for the informant as well as the deceased other than to commit suicide. The record in the form of statements as well as other incriminating material goes to suggest that the applicants are guilty of the offences leveled against them. There is sufficient material against the applicants and therefore, the prosecution may be permitted to try the sessions trial. The learned APP also submitted that the supplementary statement of the informant came to be recorded wherein it came to be stated that the applicants along with other accused persons started pressurizing the informant and his family members and also used to give threats. The statement of witnesses, including family members of the deceased, specifically stated that the accused No. 1 and 2 have harassed and threatened the informant and deceased for money. It is also contended that the informant and his brother attempted to commit suicide due to the harassment of the

accused. The learned APP, therefore, prayed for rejection of the instant criminal revision application.

8. After hearing the learned counsel for the parties and going through the charge-sheet, it is found that the applicants are facing charges under Sections 306, 504, 506 r/w 34 of the Indian Penal Code and under Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014. The informant has lodged the report on 14.08.2017 stating therein about money transactions between the parties. It is found that the complainant Vedvikas stated that all relatives were staying jointly. On 09.08.2017, in view of the mental pressure and continuous demand of money by the accused persons and also threats extended by them, the informant and the deceased had jumped into the Godavari river at Kaygaon Toka, Gangapur. The fishermen could save the complainant Vedvikas, however, in the said incident, his brother Vedprakash expired. It is stated that the applicants are known to the complainant and his deceased brother since last 13 years. It is further pointed out that the father of the complainant has medical issues and in order to overcome those medical expenses, they spent all their earnings and as such, in the said treatment they

spent everything which they had. In order to overcome the financial difficulties, they obtained loans from the accused persons i.e. Shakil Ahmed, Amir Shakil, Rajesh More, Ranjana Satam and Reshma Patil. The amount is directly credited to their bank account. It is alleged that the accused demanded 8% interest on the said loan amount. In order to repay the aforesaid loan amount of different creditors, the complainant and his deceased brother stated to have sold their household properties and also had sold their ancestral properties which was in Uttar Pradesh.

9. According to the complainant, despite paying all the dues, the accused persons used to harass and used to continuously demand the interest amount of the said loan amount. On 08.08.2017, just before one date of the incident of suicide, the accused persons had come to complainant's house. Thereafter, after having talk with the said accused persons, the deceased brother of the complainant was silent and did not speak anything and went to his room and slept. On next date, on 09.08.2017, his brother informed the complainant that they are unable to sustain the pressure of the accused persons and therefore, they took the driver named Shinde with them and went

towards the Godavari bridge in Tavera car. Both the brothers stated to have jumped into the river. The fisherman tried to save them, however, they could save the complainant, but his brother died in the said incident due to drowning. Therefore, the informant lodged the report against the accused persons.

10. It is pertinent to note here that the incident in question took place on 09.08.2017, however, the informant lodged the very first report on 14.08.2017. His supplementary statement also came to be recorded on 16.08.2017. However, the said FIR is conspicuously silent as to why it took almost six days to register the report after the incident. The original report is handwritten report by Vedvikas dated 14.08.2017. The body of the deceased was forwarded for the post-mortem report. In the column of post-mortem report, it is written that the deceased had fallen from Kaygaon Bridge into the river and was found in the river and was declared dead in SDH Gangapur. The post-mortem examination was requested by the PSI, PS Gangapur to know the exact cause of death on 09.08.2017. The cause of death as per the post-mortem report is death due to drowning. In such circumstances, the learned Senior Advocate Shri Sapkal has

attacked such evidence of the prosecution by contending that when the police report accompanying the requisition for post-mortem report states that the deceased had fallen from the bridge, itself goes to show that the deceased has not committed the suicide. In this respect, the presence of brother (informant) along with the deceased is crucial and he is not coming forward telling the actual truth before the police. There is thus strong doubt as regards the truthfulness of the statement of the informant. The delay took place in registering the FIR, therefore, itself creates doubt whether the deceased had fallen down in the bridge or he has committed suicide. The false implication of the accused persons, therefore, cannot be ruled out.

11. The aforesaid submission assumes significance as the informant himself has not clearly stated actually what had happened on the date of incident. Naturally, the police reports were the first to record the statements of the brother of the deceased who was very much present at the time of incident. The police have written that the deceased was fallen from the bridge. The said remark of fallen from bridge in the post-mortem report, therefore, creates doubts about the prosecution case, particularly

when the brother of the deceased, who was very much present at the time of incident and he is the first person to report the incident to the police, has lodged the report after delay of about six days. Therefore, whatever the brother of the deceased i.e. informant had stated to the police, is reflected in the post-mortem report. This fact assumes significance for the reason that the informant took almost six days to lodge the report against accused persons after the date of incident. There is no explanation in the report as regards why it took six days to report the incident to the police.

12. In order to attract the offence under Section 306, specific abetment as contemplated under Section 107 of Indian Penal Code on the part of accused, is required. The intention of accused to aid or to instigate or to abet the deceased to commit suicide is must for this particular offence under Section 306. The aspect of abetment has been clarified by the Hon'ble Apex Court in various judgments. In the case of *Chitresh Kumar Chopra versus State Government of NCT reported in (2009) 16 SCC 605*, the Hon'ble Apex Court held that there should be intention to provoke, incite or encourage the doing of an act by the latter.

Each person's suicidal pattern is different from other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straight jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances. The Hon'ble Apex Court in the very same judgment further observed that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide conviction cannot be sustained. Thus, from the intention of legislature and the ratio of cases decided by the Hon'ble Apex Court, it is clear that in order to convict a person under Section 306, there has to be a clear *mens rea* to commit the offence. It requires an active act or direct act which led the deceased to commit suicide, seeing no option, and that act must have been intended to push the deceased into such a position that he committed suicide. The aforesaid proposition has been continuously followed by the Hon'ble Apex Court in the case of *Madan Mohan Singh versus State of Gujarat reported at (2010) 8 SCC 628*, *S. S. Chheena versus Vijay Kumar reported at (2010) 12 SCC 190* and then by this Hon'ble Court in various judgments.

13. In view of the aforesaid legal position, it is necessary to scrutinize the case of the prosecution to find out whether the offence punishable under Section 306 can be said to be made out against the accused persons. In order to prove the charges under Section 306 of IPC, it is necessary for the prosecution to at least, prima facie, establish that the accused had an intention to aid or instigate or abet the deceased to commit suicide. In the absence of availability of such material, the accused cannot be compelled to face trial for the offence punishable under Section 306.

14. After considering the aforesaid aspect, it is clear that the person can be said to have committed offence under Section 306 if he had abetted the commission of such suicide. The definition of abetment as provided under Section 107 of Indian Penal Code is reproduced 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.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.

15. Thus, the offence of abetment is separate and distinct offence. The word instigate literally means to provoke, incite, urge or bring about persuasion to do anything. The abetment may be by instigation, conspiracy or intentional aid as provided in three clauses of Section 107. In case of abetment of suicide, there must be proof of direct or indirect act of inciting to the commission of suicide. On careful perusal of the entire material on record together with law relied in the judgments delivered by the Apex Court as well as this court, it can be safely arrived at a conclusion that the applicants are not even remotely connected with the offence punishable under Section 306 of Indian Penal Code. From the circumstances, it is clearly found that the ingredients of abetment are totally absent in the instant case for the offence under Section 306 of Indian Penal Code.

16. In such circumstances, the proceedings of trial against the accused persons for the offence punishable under Section 306 of Indian Penal Code cannot be proceeded further for the reason that the prosecution failed to establish that the accused had an intention to aid the deceased to commit suicide. In absence of aforesaid material, the applicants cannot be compelled to face trial for any action for the offence punishable under Section 306 of Indian Penal Code as there is absolutely no any positive act on the part of applicants in the present case involving suicidal death of the deceased. It is necessary for the prosecution at least prima facie establish that the accused had an intention to aid the deceased to commit suicide.

17. In that view of the matter, the Criminal Revision deserves to be allowed. Hence, the following order:-

ORDER

- (a) The Criminal Revision Application is allowed.
- (b) The impugned order dated 01.01.2024 passed by the learned Additional Sessions Judge, Vaijapur, below exhibit 17 in Sessions Case No.26/2019 thereby, rejecting the application

exhibit 17 for discharge, is quashed and set aside.

(c) The application (exhibit 17) for discharge filed by the applicants under Section 227 of the Code of Criminal Procedure, 1973, in Sessions Case No.26/2019, stands allowed.

(d) The applicants are discharged from the offences charged in Sessions Case No.26/2019.

(e) Bail bond, if any furnished by the applicants, stands cancelled.

(f) The surety, if any, stands discharged.

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(SUSHIL M. GHODESWAR, J.)