

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 355 OF 2015

Sachin Ramchandra Chavan. ... Petitioner.
Versus
The Senior Police Inspector & anr. ... Respondents.

Mr. Mateen Abdul Rahim Shaikh, advocate for petitioner.

Mr. Arfan Sait, APP for State.

Mr. Manish M. Kolhatkar, API, Panvel City Police Station.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 14, 2015

P.C.:

1 Heard the learned Counsel for the Petitioner and the learned
APP for State.

2 Rule. Rule made returnable forthwith with the consent of the
parties.

3 The Petitioner herein has been charge-sheeted in Crime No. 130
of 2012 registered at Panvel City Police Station for offence punishable
under Section 306, 506 of the Indian Penal Code.

4 It is the case of the prosecution that on 18th March, 2012
Vaishali Madhusudan Joshi lodged a report at the police station
alleging therein that the present Petitioner had got acquainted with
her daughter Nilekha. They had decided to get married. The
marriage was scheduled to be held on 18th March, 2012. It was
decided between both the families that initial ritual like betrothal
ceremony would be completed in the morning and the marriage was
to be performed at about 5.15 p.m. the venue of the marriage was at
Shrikrupa Hall, Khandeshwar Colony, Mumbai

5 It is alleged that the daughter of the complainant had paid Rs.
40,000/- as an advance booking to the Manager of Shrikrupa Hall. It
is alleged that the hall was booked for a total sum of Rs. One Lakh.
That Nilekha had asked the present Petitioner to pay the remainder

of the amount i.e. Rs. 60,000/- towards expenses of the hall. On 17th March, 2012, the Petitioner had allegedly visited the house of the complainant and had thrown the receipt of Rs. 60,000/- on her. There was some verbal altercation between the present petitioner, Nilekha and her family members. That Nilekha was scared.

6 According to the complainant, at about 11 p.m. the Petitioner had asked for mutton biryani. That Nilekha had been to the hotel and there, she had taken mutton biryani to the house of the present Petitioner. She was accompanied by her neighbour Vicky Dhanawade. In the intervening night of 17th and 18th March, 2012 at about 2.30 a.m., the Petitioner had allegedly called upon Nilekha and informed her that he does not wish to get married to her. He had further informed her that he is willing to get married to the daughter of his maternal uncle. According to the complainant, Nilekha was taken aback with shock and on 18th March, 2012 at about 7 a.m. she had committed suicide in her house by hanging on the rafter of her kitchen.

7 On the basis of these allegations, the Petitioner is being prosecuted for offence punishable under Section 306 of the Indian Penal Code. After completion of investigation and filing of the charge-sheet, the petitioner herein had filed an application seeking discharge. The learned Sessions Judge, Raigad, Alibag by Judgment and Order dated 3/1/2015 has dismissed the discharge application. Hence, this Petition.

8 Perused the compilation of the charge-sheet, more particularly, statement of Jaising Narendra Thakkar who happens to be the Manager of Shrikrupa Hall, Plot No. 1, Sector 6, Khandeshwar Colony. After inspecting his receipt book, he had disclosed to the police that the hall was booked for wedding ceremony of Nilekha and the Petitioner on 18th March, 2012. That on 20th December, 2011 Sanjay Bhosale to happens to be the maternal uncle of the present petitioner had paid an advance of Rs. 10,000/-. On 27/2/2012 he had paid Rs. 30,000/- and on 17th March, 2012 the maternal uncle

had paid Rs. 30,000/-. This statement would clearly indicate that no amount was paid towards expenses of hall by Nilekha.

9 Perused the statement of Vicky Dhanawade who had accompanied Nilekha to the house of the Petitioner on 17th March, 2012. He has categorically disclosed that on 17th March, 2012 the Petitioner herein had not met the deceased at his house.

10 The learned APP submits that the Petitioner had refused to marry Nilekha just one day before the marriage and therefore, in a state of shock, she had committed suicide. Hence, the Petitioner is liable to be prosecuted under Section 306 of the Indian Penal Code.

11 The learned Counsel for the Petitioner rightly submits that the Petitioner had abetted, instigated and facilitated the commission of the suicide. In fact, the Petitioner had not even fathomed that his refusal to marry Nilekha would take such an ugly turn and that she would commit suicide. It can be said that Nilekha was hyper

sensitive. The Petitioner herein had no intention that she would commit suicide or should end her life. That in these circumstances, the Petitioner cannot be prosecuted for an offence punishable under Section 306 of the Indian Penal Code. In cases of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. The Petitioner herein can be said to have changed his mind at the last moment, but by itself it cannot be said that he had presumed that the deceased would go to such an extreme end. Hence, the Petitioner cannot be held liable for an offence punishable under Section 306 of the Indian Penal Code.

12 Section 109 of the Indian Penal Code reads as follows :

“109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.”

13 The intention of the accused has to be taken into consideration. It cannot be even remotely said that the Petitioner had abetted the commission of suicide and hence, continuation of the proceedings would be an abuse of process of law. The Petitioner herein would have to go through the ordeal of trial and therefore, in the fitness of circumstances, after perusing the compilation of the charge-sheet and hearing the submissions of the learned APP as well as the learned Counsel for the Petitioner, this Court is of the opinion that the proceedings against the Petitioner in Sessions Case No. 41 of 2014 pending before the Sessions Judge, Riagad, Alibag deserves to be quashed and set aside.

14 In view of the above observations, the Writ Petition is allowed. The proceedings against the Petitioner in Sessions Case No. 41 of

2014 pending before the Sessions Judge, Raigad, Alibag is quashed and set aside.

15 Rule is made absolute in the above terms. The Petition is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)