

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2255 OF 2015

Shahaji Kisanrao Kutwal & Ors.

APPLICANTS

V E R S U S

The State of Maharashtra & Anr.

RESPONDENTS

Mr. A.S. Sawant, Advocate for the Applicants
Mr. M.M. Nerlikar, A.P.P. for Respondent No.1 – State
Mr. Y.S. Chaudhari, Advocate for Respondent No.2

**CORAM : A.V. NIRGUDE &
INDIRA K. JAIN, JJ.**

DATE : 16th March, 2016

PER COURT :

1. The applicants are accused in Crime No. 11 of 2015 of Belwandi Police Station, District Ahmednagar. The applicants are accused of abetting suicide of one Pravin, a minor, aged 16 years and also of assaulting him and causing hurt to him. Previous incident took place on 14th January, 2015. The applicants allegedly called victim Pravin in front of his school and they assaulted him accusing that he had sent some letters to some girl who was studying in the same school. The applicants threatened Pravin that they would make his complaint to police and also remove him from the school. They further asked him to keep his father present in the school on the next day. Pravin got depressed because of this incident and committed suicide during the night.

2. The question is, what happened between the applicants and Pravin in front of many witnesses would amount to abetment of suicide. A term “abetment” is defined in Section 107 of the Indian Penal Code. It 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.”

On perusal of this provision, it cannot be said that the acts allegedly done by the applicants would amount to abetment of Pravin's suicide. The acts at the most amount to causing hurt to Pravin. By no stretch of imagination the applicants, while committing such acts, were aware that Pravin was a weak minded person susceptible of getting depressed so much so that he would commit suicide. This case would not fall within the parameters of Section 305 of the Indian Penal Code. Said offence thus deserves to be set aside from the complaint. Application is partly allowed. Offence under Section 305 of the Indian Penal Code alleged against the applicants is set aside. Remaining offences if any shall continue.

(INDIRA K. JAIN, J.)

(A.V. NIRGUDE, J.)

