

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6130 OF 2016

Kiran Sidharth Baisane

Age : 26 years, Occupation : Housewife,

Through : Nanabhau Daulat Ishi,

Add. Aabedkar ChowkmChilane,

Tal. Shindkheda, Dist. Dhule

.. Applicant

Vs.

The State of Maharashtra

Through the District

Superintendent of Police,

Dhule, District Dhule

.. Respondent

Mr. Manish V. Bhamre, Advocate for the applicant

Mr. S.M. Ganachari, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.

DATE : 23/11/2016

ORAL ORDER :

Heard.

2. The applicant herein apprehends her arrest in connection with Crime no. 300 of 2016 registered at Dhule Taluka Police Station, Dist. Dhule for the offence punishable under Section 306 of the Indian Penal Code.

3. Report in question is lodged by the mother-in-law of present applicant. Applicant was married with

one Siddharth in the year 2009 and from the said wedlock, they had two children. According to the informant, there were some matrimonial disputes between the parties. The applicant had filed a complaint against her husband and other family members under Section 498-A of the Indian Penal Code on 1/2/2016. Similarly, the husband had filed proceedings for divorce against the present applicant in the year 2015. The said husband committed suicide on 5/9/2016.

4. Learned counsel for the applicant submitted that considering the strained matrimonial relations between the parties, and the fact that the applicant had filed complaint under Section 498-A of the Indian Penal Code on 1/2/2016, it cannot be said that there was any mens-rea on the part of the present applicant so as to abet commission of suicide. He submitted that the applicant-husband took his own life on his own accord.

5. The application is opposed by learned A.P.P., by relying upon the police papers. He submitted that civil as well as criminal litigation was pending and same was initiated by both the parties against each

others. He referred to the statements recorded, to indicate the strained matrimonial relations. He therefore submitted that the applicant herein was not entitled for any protection whatsoever.

6. Perused the police papers. It can be seen that though the parties were married in the year 2009, there were some matrimonial disputes between them. While the husband had filed proceedings for divorce, the applicant had sought payment of maintenance. On 1/2/2016, the applicant had lodged a report under Section 498-A of the Indian Penal Code against her husband and other family members. There is also a previous document executed by both the parties, by which they resolved to reside together as husband and wife.

7. Considering the aforesaid facts, prima facie, for attracting provisions of Section 306 of the Indian Penal Code, presence of mens rea appears to be absent. In that view of the matter, the applicant would be entitled for protection. Hence the following order :-

ORDER

I) In the event of applicant's arrest in connection with Crime no.300 of 2016 registered at Dhule Taluka Police Station, Dist. Dhule for offence punishable under Section 306 of the Indian Penal Code, she shall be released on bail, upon executing P.R. bond of Rs.15,000/- (Rs. Fifteen Thousand) with one surety in the like amount.

II) The applicant shall attend the concerned Police Station on 02/12/2016 and, thereafter, as per the directions of the Investigating Officer.

III) The applicant shall take no steps to tamper with the prosecution evidence.

8. It is clarified that observations made in this order are only for deciding the present Application.

9. Criminal Application stands allowed and disposed of accordingly.

[A.S. CHANDURKAR]
JUDGE

arp/