

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.512 OF 2014

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| 1. | Sanjay Nagapurkar | |
| 2. | K.B. Gorane | Applicants |

V/s

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| 1. | State of Maharashtra | |
| 2. | Investigating Officer | |
| 3. | Mrs.Shobha Rajendra Chaugule | Respondents |

Mr. Amit Desai, Senior Advocate a/w Mr. Manoj Mohite, Mr. Yogesh Chawale, Mr. Dnyaneshwar Jadhav, Mr. Nihar Thackaray i/b M/s. Legasis Partners for the Applicant.

Dr. F.R. Shaikh, APP for the Respondent Nos.1 and 2.

Mr. Tushar L. Pimple for the Respondent No.3.

CORAM : A.S. OKA &

A.A. SAYED, JJ.

DATED : 28 JULY 2016

ORAL JUDGMENT: (PER A.S. OKA, J.)

1 A notice for final disposal was already issued by this Court. The prayer made in this Application under section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") is for quashing the First Information Report being CR No.138 of 2014 registered with Sangvi Police Station as far as the present Applicants are concerned. The third Respondent is the First Informant who is the widow of one Rajendra Chaugule. In the

statement on the basis of which the impugned First Information Report was registered, the third Respondent stated that her deceased husband was employed with M/s. Alfa Laval (India) Ltd. She has stated in her statement that in September 2013, the deceased was removed from the employment. She has stated that the deceased used to say that the action of removal from the employment was unjust. She stated that deceased used to be disturbed as a result of the failure of Yusuf Bhai, Bharat Jain, Gupta and Vijay Durape to pay him certain amounts which were due and payable by them. She has stated that on 19 March 2014 at 8.30 a.m., when the door of her house was broken open, it was found that the deceased Rajendra had hanged himself and had committed a suicide. In the said statement, she has stated that the police recovered a suicide note written by her husband in which the names of the present Applicants have been mentioned. In her statement, she has given figures of the amounts due and payable by the said Yusuf Bhai, Bharat Jain, Gupta Kudalwadi and Vijay Durape to the deceased Rajendra.

2 Along-with Affidavit of Shri Sachin Balasaheb Tadakhe, Sub Inspector of Police, Sangvi Police Station, a copy of the alleged suicide note signed by the deceased Rajendra is placed on record. The suicide note records that the Manager/Management of M/s. Alfa Laval (India) Limited is responsible for his suicide. In the alleged suicide note, he has

named the present Applicants by alleging that they have deliberately removed him from the employment. Thereafter, he has stated that certain amounts are due and payable to him from Yusuf Bhai, Bharat Jain, Gupta Kudalwadi and one Vijay Durape. He stated that the said persons were not giving him the amounts.

3 In support of the Application filed by the Applicants who are employed with M/s. Alfa Laval (India) Ltd., the learned Senior Counsel appearing for the Applicants pointed out that the first Applicant is working in the post of Employee Relations-Leader and the second Applicant is holding the post of Director-Operations of the said Company. He pointed out that in August 2013, the employment of the deceased was terminated by the said Company. He pointed out that the employment of deceased was terminated after holding a regular Disciplinary Enquiry as per the Model Standing Orders. He pointed out that an enquiry report was submitted by the Enquiry Officer on 30 June 2013. He pointed out the correspondence made by the Company with the deceased starting from the letter dated 5 October 2012 by which charge-sheet was served upon the deceased. Various documents forming part of the enquiry have been annexed to show that the Applicant participated in the Disciplinary Enquiry. It is pointed out that even the report of the Enquiry Officer was served on the deceased. He submitted that except for signing the order

of dismissal dated 31 August 2013, the present Applicants have played no role. He urged that by no stretch of imagination, the offence under section 306 of the Indian Penal Code is attracted against the Applicants.

4 The learned APP urged that the role played by the Applicants is a matter of investigation, especially when in the suicide note, the names of the Applicants were specifically mentioned by stating that they have deliberately removed the deceased from the employment. He, therefore, submitted that at this stage, no interference is called for. The learned Counsel appearing for the third Respondent urged that no interference is called for as the names of the Applicants are specifically appearing in the suicide note.

5 We have carefully considered the submissions. We have perused the alleged suicide note. The alleged suicide note records the factual aspects, the first is that the Management of the Company is responsible for the suicide committed by the deceased and secondly, the present Applicants have deliberately removed the deceased from the employment.

6 In the present Application, all the documents concerning the Disciplinary Enquiry held by the Enquiry Officer have been annexed. All

the correspondence made by the Company with the deceased right from the service of show cause notice, service of charge-sheet, notice of enquiry, etc. are part of the Application. In fact, a copy of the Enquiry Report submitted by the Enquiry Officer along with the enquiry proceedings have been annexed as 'Exhibit B' to the Application. The said documents show that after conclusion of the Disciplinary Enquiry, a report was submitted by the Enquiry Officer holding that the charges against the deceased have been proved. In fact, the documents annexed show that on 8 August 2013, even a copy of the Enquiry Report was served to the deceased and his comments were invited. Postal acknowledgement signed by the deceased is also annexed. The present Applicants under their signatures issued an order of termination dated 31 August 2013 to the deceased which was served upon the deceased on the same day. While receiving the copy of the order of termination, the deceased recorded thereon that the termination should be reconsidered. He committed suicide on 19 March 2014.

7 From the Affidavit of Shri Sachin Balasaheb Tadakhe, Sub Inspector of Police, Sanghvi Police Station, it appears that a summons was issued under section 91 of the CrPC to the Manager of the Company calling upon him to produce various letters. The letters produced by the Company are on record. The letters show that the

deceased had applied to the Enquiry Officer for grant of adjournments and accordingly adjournments were granted. On 13 August 2013, the deceased addressed a letter to the first Applicant complaining about the report of the Enquiry Officer and complaining about the action of the dismissal. Thus, the documents which were obtained by the Investigating Officer itself show that the deceased participated in the Disciplinary Enquiry and an order of termination was served to him. We must note here that the deceased allegedly committed suicide on 19 March 2014. As stated earlier, the order of termination from the employment was served upon the deceased on 31 August 2013.

8 Thus, even the material collected by the Investigating Officer shows that the employment of the deceased was terminated after conducting a Disciplinary Enquiry. The present Applicants were not concerned with the Disciplinary Enquiry and they have only signed the order of termination.

9 As far as section 306 of the Indian Penal Code is concerned, the law is well settled under the several decisions of the Apex Court. We may conveniently refer to only one decision of the Apex Court in the case of **Amalendu Pal Alias Jhantu vs. State of West Bengal**¹, and in particular paragraphs 12 and 13 which read thus:

1 (2010) 1 SCC 707

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the Court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”

(underline supplied)

10 In the present case, as far as the Applicants are concerned, none of the ingredients of Section 306 of the Indian Penal Code are attracted even assuming that the statements made by the third Respondent are correct and even assuming that the suicide note allegedly signed by the deceased is genuine. By no stretch of imagination it can be said that the present Applicants have played an active role by an act of instigation or by doing certain act to facilitate commission of the alleged suicide. At highest the suicide note means that the deceased had a grievance about his termination from the employment after holding a Disciplinary Enquiry.

11 Therefore, the present Application must succeed and this is a fit case to exercise the power under section 482 of CrPC. Hence, we pass following order:

- i) Rule is made absolute in terms of the prayer clause (b) of the Application. We however, make it clear that the observations made in this judgment and order, are only for limited purposes of considering the prayer made by the Applicants.
- ii) The relief granted under this order will remain confined to the present Applicants. The observations made in this order will not influence the further investigation and trial, if any.

(A.A. SAYED, J.)

(A.S. OKA, J.)