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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.20 OF 2016

Ashwin Noranha .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Subodh Desai a/w. Ms Prachi Sawant i/b.
M/s.M.V.Kini & Co., Advocate, for the Applicant
Mrs.P.P.Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 15.06.2016

P.C.

. Heard learned counsel for the Applicant
and the learned APP for the Respondent – State.

2. By this Application, the Applicant has
impugned the order dated 08.04.2015 passed by
the learned Special Judge, Mumbai by which the
Applicant's Application for discharge came to be
rejected.

3. At the outset, learned counsel for the

Applicant relied on the order of this Court (CORAM : A.V.NIRGUDE, J.) dated 08.12.2015 by which co-accused-Kelvin Jothong Seow came to be discharged. He submitted that the Applicant is infact, better placed than co-accused-Kelvin Seow, who has been discharged from the said case. He submitted that taking all the facts as they stand, no offence as alleged under Section 306 of the Indian Penal Code is disclosed as against the Applicant.

4. Learned APP does not dispute the fact that the role of the Applicant is similar to that of co-accused Kelvin Seow, who has been discharged by this Court vide order dated 08.12.2015 passed in Cri. Revn. Appln. (St.) No.430 of 2015. She further submits that the order dated 08.12.2015 passed by this Court discharging co-accused-Kelvin Seow, has not been challenged by the State.

5. Perused the papers. The suicide note written by the deceased reads thus :-

"The reason for my suicide is stress because Kelvin Seow, Ashwin Noranha, Munesh Bozugula."

6. According to the Complainant, who is the father of the deceased, his son (Vijay) had studied upto 9th Std and was unemployed for about 8 months. He has stated that his son was earlier working in Delhi with Kelvin Seow and the present Applicant as their driver. He has stated that his son left the said job within 3 weeks and returned to Mumbai. He has stated that his son was suffering from tuberculosis (T.B.) for about eight months and was undergoing treatment for the same. He has stated that when he questioned his son as to why he had left the job and returned from Delhi, his son had allegedly disclosed to him, that Kelvin Seow was gay and he had seen Kelvin get intimate with his friend Munesh Bozugula in his presence. He has further

stated that on 13.01.2013, after dinner, the deceased went to his room and committed suicide. He has stated that his son had left a suicide note, naming 3 persons responsible for his suicide.

7. From the material on record, there appears to be no clear reason for the deceased to commit suicide. No overt act has been attributed to the present Applicant. No particulars or details are set out for the stress, which ultimately led the deceased to commit suicide. None of the ingredients as are necessary to constitute an offence under Section 306 of the Indian Penal Code are disclosed as against the Applicant. There is no material in the entire charge-sheet, to show that the Applicant in anyway abetted the commission of suicide of the deceased either by instigation, intentional aiding or by conspiracy.

8. Considering the material on record, by no stretch of imagination can it be said that the Applicant abetted the commission of suicide of deceased Vijay. Even otherwise, the Applicant is entitled to the relief on the ground of parity, inasmuch as, co-accused Kelvin Seow, has been discharged by this Court vide order dated 08.12.2015.

9. Accordingly, the Application is allowed and the Applicant is discharged from S.C.No.816 of 2015.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)