

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.28/2016

**(Shrikant s/o Damodar Ghonge and ors. ..vs.. The State of Maharashtra through
PSO P. S. Rana Pratap Nagar, Nagpur)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S. P. Dharmadhikari, Senior Advocate with
Mr.U.Dabale and Mr.R.Kalra,Advocates for applicants
Mrs. B. H. Dangre, Public Prosecutor with
Mr. N. B. Jawade, A.P.P. for non applicant-State.

CORAM : A. B. CHAUDHARI, J.

DATE : FEBRUARY 5, 2016

Rule, returnable forthwith. The matter was heard in the First Session and the Court was to make an order but the learned Public Prosecutor Mrs. B. H. Dangre wanted to take some instructions and hence the matter was posted in the Second Session. Now, in the Second Session, it is called out and the learned A.P.P. Mr. Jawade prayed for adjournment. But he is not having any instructions.

On 06.01.2016 Crime No.5/2016 was registered with Police Station, Rana Pratap Nagar, Nagpur, at the instance of Sau. Anjali Shashikant Hirpurkar alleging that her daughter committed suicide because of the alleged ill treatment by the applicants and her husband by name Sagar. The applicants are father in law, mother in law and maternal uncle.

Mr. Dharmadhikari, learned Senior Advocate appearing on behalf of the applicants, invited my attention to paragraph 7 of the application and contended that the deceased had a psychological problem and was abnormal in her behaviour. Therefore, she was often referred to Psychiatrist Dr. Rajesh Rathi, Congress Nagar, Nagpur where she was taken for regular sessions for psychiatric therapy. I quote, following portion from paragraph 7:

“...It would be not out of place to mention here that the deceased Harsha Ghonge was disturbed and dissatisfied in her own life for which the applicants herein are at least not responsible. It is pertinent to note that the deceased Harsha Ghonge was undergoing a treatment for some mental disorder. That the deceased was attending regular sessions with a psychiatrist namely Dr. Rajesh Rathi whose clinic is situated at Congress Nagar area of Nagpur. It is thus sufficient to show that the deceased Harsha Ghonge had a psychiatric problem and hence perhaps her own mental condition led the deceased to take the step of committing suicide.”

Though, reply has been filed by the State, there is no denial to the said averments nor any specific reply countering the same.

Mrs. Dangre, learned Public Prosecutor has shown me a diary written by the deceased. I have gone through the relevant pages from the diary and I find that on one date the deceased had written that she had, in fact, a great love and affection for

her husband and on the same date on the next page what is mentioned is about her anger. The contents of the diary shown to me do not show any ingredients which would constitute offence, prima facie under Section 306 of the IPC. It is the settled legal position for constitution of offence of abetment of suicide that there should be a 'live link' between commission of suicide and the prior incidents. From the diary, there is no evidence at all about any live link or ill treatment. The diary does not show any such ingredient except vague mental tension which would compel one to infer that the applicants did say such serious thing which would compel her to commit suicide. There is, therefore, reason to believe that looking to the mental status of the deceased, the deceased indulged in committing suicide.

Mr. Dharmadhikari, learned Senior Advocate, contended that husband of the deceased is an Engineer, having completed engineering from IIT, Powai and the deceased was equally highly qualified in that she was LLM. Since the diary has been already seized, nothing further is required to be done for which custodial interrogation of the applicants would be necessary. It is not in dispute that all the applicants were at the house of the father of the deceased at Akola asking him to convince his daughter and bring her back at Akola. But then she

committed suicide at Nagpur.

I think, the applicants can be directed to join the investigation and make themselves available before the Investigating Officer. If still need be, the Investigating Officer can be given liberty in case the eventuality arises. But then, to allow the arrest of the applicants, who were admittedly not at Nagpur when suicide was committed and they were at Akola. I think, the arrest would be wholly unnecessary. There are judgments and judgments of the apex Court that there is a tendency to rope in as many relatives as possible for offences under Section 498-A and 306 of the IPC even though there is no substance in the allegations rising from matrimonial discord. Insofar as the applicants are concerned, nothing is pointed out as to why their police custody would be necessary. As discussed, I also do not find any prima facie evidence against these applicants.

In that view of the matter, following order is passed.

ORDER

- (i) Criminal Application No.28/2016 is allowed.
- (ii) Rule is made absolute in terms of interim order dated 15.01.2016.
- (iii) The applicants are directed to appear before the Investigating Officer tomorrow i.e. on

06.02.2016 from 11.00 a.m. to 5.00 p.m. and join the investigation and also remain present as and when called by the Investigating Officer. The applicants shall cooperate with the Investigating Officer including their cooperation for seizure of the documents, if any.

JUDGE

kahale