

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

CRIMINAL WRIT PETITION NO.965 OF 2015.

(SUDESH GURUPRASAD KHEDIKAR..VS.. THE STATE OF MAH. THR. PI HUDKESHWAR & OTH.)

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

Court's or Judge's orders

Shri A.P.Raghute, Advocate for Petitioner.
Shri S.M.Ukey, A.P.P. for Respondent No.1.

CORAM : B.P.DHARMADHIKARI AND
Z.A.HAQ, JJ.

DATED : FEBRUARY 08, 2016.

Heard.

2. Submission is, though the suicide attempt by son of the petitioner has failed, the respondent No.2 must be charged with an offence punishable under Section 306 of the Indian Penal Code.

3. Advocate Shri Raghute submits that the persons who have instigated the son of the petitioner to take such a drastic step are already named and therefore, action under Section 306 of the Indian Penal Code ought to have been taken against them.

4. The learned A.P.P. relies upon the reply and expressed language of Section 306 of the Indian Penal Code. He submits that as there is no suicide, there can be no abetment.

5. Advocate Shri Raghute has placed reliance upon the Division Bench judgment of this Court in the case of *Naresh Vs. U.O.I.*, reported in **1994 Mh.L.J. 1850**. He contents that this distinction between 'suicide' and 'attempt to commit suicide' has been done away with insofar as Section 306 of Indian Penal Code is concerned. He has taken us through the observations made by the Division Bench in paragraphs 8 and 10 for that purpose.

6. We find that in writ petition filed before the Division Bench the prayer was to declare Section 306 of the Indian Penal Code as unconstitutional and *ultra vires* to Article 21 of the Constitution of India because of effacement of Section 309 of the Indian Penal Code from the statute book. The Division Bench has pointed out as to how the offences punishable under Sections 306 and 309 are distinct and different. The Division Bench, however, has not added any ingredient to Section 306 of the Indian Penal Code or has not made any observation which will assist the argument of Advocate Shri Raghute.

We, therefore, find that no case is made out warranting interference. The petition is **rejected**.

JUDGE

JUDGE