

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1932 OF 2017

Prasad Deepak Nand,
Age : 30 years, Occ. Service,
R/o C-701, KK Anjalika Society
Rahatani, Pune Tal. & Dist. Pune.

... **Applicant**

Versus

1. The State of Maharashtra
Through Police Inspector,
Taluka Police Station, Jalgaon,
Tq. & Dist. Jalgaon.
2. Mahendra Ramchad Bhoi
Age : 59 years, Occ. Pensioner
& Agriculture, R/o Gat No. 89
1 Plot No.4, Behin Gujral
Petrol Pump, Gurudatta Housing
Society, Dadawadi, Jalgaon
Tq. & Dist. Jalgaon.

... **Respondents**

Mr. M.V. Salunke, Advocate for the Applicant.
Mrs. P.V. Diggikar, A.P.P. for the Respondent/State.
Respondent No.2 served but absent.

**CORAM : S.S. SHINDE &
MANGESH S. PATIL, JJ.**

**DATE OF RESERVING THE JUDGMENT : 13.11.2017
DATE OF PRONOUNCING THE JUDGMENT : 29.11.2017**

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JUDGMENT: (*Per Mangesh S. Patil, J.*)

. Rule. Rule is made returnable forthwith. With the consent of the parties matter is heard finally.

2. This is an application under Section 482 of the Cr.P.C. seeking this Court to exercise its inherent powers to quash and set aside the F.I.R. registered in Crime no. 4 of 2017 at Taluka Police Station, Jalgaon on 15.01.2017 for the offence punishable under Section 306 of the Indian Penal Code and the consequential charge-sheet filed in pursuance thereof.

3. We have heard the learned Advocate for both the applicant and the learned A.P.P. We have also perused the entire record and proceedings and annexures to the charge-sheet.

4. In sum and substance the allegations in the F.I.R. are to the effect that the deceased Snehal was having an affair with the applicant. For years together the affair continued but could not result in marriage. In the year 2016, the applicant solemnised marriage with another girl Snehal started harbouring a feeling that he had since inception cheated on her. He never really intended to marry her and finally ditched her. By his such conduct he instigated her to commit suicide and she finally

ended her life by hanging herself to the ceiling fan at her residence at Jalgaon on 02.01.2017.

5. According to the prosecution, she left behind a suicide note which reads as under:

“मी Suicide करतेय

Prasad Nand is responsible for this

He cheat Me.

माझे Call details काढा. तो Punyala

Job करतो. अकोल्याचा आहे.

मी मेली तर माझे email मध्ये सर्व काही आहे. मेल्याशिवाय email check करू नये.

स्नेहल जावरे
Sd/-”

Roughly translated it means:

I am committing suicide Prasad Nand is responsible for this. He cheated me. Take out my call details. He is doing a job at Pune. He is resident of Akola. If I die everything is available in my e-mail. E-mail should not be checked unless I die.

6. Her family also found another writing running into 104 pages in her bedroom, wherein, she has spoken about how her relationship with the applicant has developed for years and also about her mental condition. The respondent no.2 who is the father of the deceased Snehal

then lodged the impugned F.I.R. The investigation was carried out and the applicant was implicated. Hence this application for quashing the F.I.R. as it was originally filed. However, during the pendency of the present proceeding charge-sheet has also been filed in the Court of J.M.F.C. Hence the applicant was allowed to carry out amendment and thereby he has included a prayer for quashing the charge-sheet as well.

7. According to the learned Advocate for the applicant, accepting the allegations in the F.I.R. and the documents annexed to the charge-sheet and particularly the e-mails, mental condition of deceased Snehal can be gathered and at places she has specifically admitted that she was at fault which has resulted in to the break-up. According to the learned Advocate, merely because the long standing relationship fell apart, the applicant alone cannot be blamed. Deceased Snehal was also responsible for the break-up. According to the learned Advocate, assuming that it was merely because of the applicant that the relationship broke up that would not be sufficient to attribute him with necessary *mens rea* for leading her to commit suicide. In fact, the applicant himself had telephoned her brother Shyamal from Pune and informed him that she was about to commit suicide. The learned Advocate pointed out that it is evident from the averments in the mail

that there was opposition to the marriage between them from the parents of Snehal and therefore she was mentally disturbed which has led her to commit suicide. The learned Advocate also pointed out that the applicant was married to one Pallavi on 03.02.2016 and the fact was known to Snehal and her family members and therefore there was no proximity in his marrying and commission of suicide. Thus, according to the learned Advocate even by accepting the allegations in the F.I.R. at their face value they fall insufficient to constitute abetment within the meaning under Section 107 of the I.P.C. The learned Advocate placed reliance on the decisions in the case of **Gangula Mohan Reddy V/s. State of A.P.; 2010 SCC 327** and in the case of **Gurucharan Singh V/s. State of Punjab; 2017(1) SCC 433**. Lastly, the learned Advocate submitted that, it would be sheer abuse of process of law if the applicant is made to face the trial on the basis of mere suspicion.

8. The learned A.P.P. vehemently opposed the application. According to him there are sufficient allegations leveled against the applicant in the e-mails sent by deceased Snehal which demonstrate that the applicant had time and again retracted from the relationship and kept her hanging on the prospects of the marriage. Such persistent conduct on his part in repeatedly promising the marriage and then retracting on

some pretext or the other would definitely constitute instigation within the meaning of Section 107 of the I.P.C. The allegations in the F.I.R. clearly make out all the necessary ingredients for constituting abetment. The subsequent event of completion of investigation and finding of enough substance/material implicating the applicant further corroborates the allegations in the F.I.R. Therefore, it would be just and proper to allow the criminal proceeding to go on instead of thwarting it at the threshold.

9. We have carefully gone through the charge-sheet and the annexures thereto. It is an admitted fact that the applicant and deceased Snehal were involved in an affair and the relationship continued for seven to eight years. It is also apparently a fact that she committed suicide on 02.01.2017 and it does not seem to be a sheer coincidence that she has chosen the date which happens to be the first marriage anniversary of the applicant. It is indeed an unfortunate state of affairs that such a long standing relationship has come to an end in this manner. However, what is necessary and important for us to ascertain is as to whether *prima facie* it can be said that the alleged conduct of the applicant which is attributed to him by deceased Snehal in her various e-mails and the suicide note can be said to have a nexus with the act of

suicide. Unless there is such nexus, the former cannot be said to be an abetment of which the consequence was suicide. A mere cause and effect relationship would not be sufficient. For constituting abetment within the meaning of Section 107 of I.P.C, such conduct of the applicant must have proximate relation with the act of commission of suicide.

10. It is trite and the law is well settled by catena of cases **S. S. Chheena Vs. Vijay Kumar Mahajan and another; 2010 ALL MR (Cri.) 3298 (S.C.), Gangula Mohan Reddy Vs. State of A.P.; 2010 ALL MR (Cri) 615 (S.C.), Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh; 2002 CRI.L.J. 2796**, and few Division Bench decisions of this Court in the case of **Binod and Ors. Vs. The State of Maharashtra and Anr; 2013(3) Mh.L.J. (Cri.) 418, Ms. Lovina Pankaj Bhatia Vs. Central Bureau of Investigation and Ors.; 2011 (113) BLR 3192, Dr. Shivanand Shivraj Biradar Vs. The State of Maharashtra and Anr; 2017 ALL MR (Cri) 1401**.

11. Suffice for the purpose to note that the basic principle as is discussed above is to the effect that in order to constitute an abetment of suicide there has to be either instigation or conspiracy or intentional aid which results in suicide. Obviously, it would all depend upon the facts and circumstances peculiar to each case and no straitjacket formula can

be devised. True it is that in the e-mails sent by Snehal at various places she has blamed herself for the break-up. However, simultaneously it can also be noticed that sometimes even she has passed on the blame to the applicant. The facts narrated in these e-mails may well have to be established by other corroborative evidence. In our view, when apparently there was a long and affectionate relationship between the applicant and deceased Snehal, all these mails will have to be scanned threadbare. Even there is a writing running into 104 pages seized during the investigation contents of which would reflect her mental condition as well. An opportunity will have to be extended to the Investigating Officer and the prosecution to substantiate the allegations on the basis of the material collected during investigation. In the peculiar facts and circumstances of the present case, in our view no such minute scrutiny is possible at this juncture and doing it would be hazardous. Since already the prosecution has been launched by filing the charge-sheet, it would be appropriate if the trial is allowed to go ahead.

12. In our considered view, this is not a case and the stage, wherein, it can be said that it would be a sheer abuse of process of law, if the applicant is made to face the trial. Falling apart of such persisting and long standing affair in a given case might constitute an act amounting to

instigation. It all will depend upon the evidence that would come before the learned Judge.

13. Under the circumstances, in our view the applicant is not entitled to seek quashment of the prosecution at this juncture. The application is liable to be rejected.

14. It is made clear that the observations made herein are confined to the decision of this application alone and we have not expressed any opinion on the merits of the case before the learned trial Judge.

15. The application is rejected. The rule is discharged.

[MANGESH S. PATIL, J.]

[S.S. SHINDE, J.]

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