

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

**CRIMINAL APPLICATION NO. 2052 OF 2017**

1. Farzana D/o Sabir Sayyad  
Age : 28 years, Occ : Advocate,  
R/o Subhedar Wasti, Ward No.2,  
Shrirampur, Tq. Shrirampur,  
Dist.Ahmednagar.
2. Nadim S/o Hasan Shaikh  
Age : 25 years, Occ : Business,  
R/o Kazibaba Dargah, Ward No.2,  
Shrirampur, Tq. Shrirampur,  
Dist.Ahmednagar.
3. Reshma W/o Nadim Shaikh  
Age : 20 years, Occ : Household,  
R/o Kazibaba Dargah, Ward No.2,  
Shrirampur, Tq. Shrirampur,  
Dist.Ahmednagar.

**..APPLICANTS**

**VERSUS**

1. The State of Maharashtra  
Through Shrirampur City Police Station,  
Shrirampur, Dist. Ahmednagar.
2. Riyaz S/o Sijauddin Shaikh  
Age : 38 years, Occ : Business,  
R/o Behind Education High School,  
Gondhawani Road, Ward No.1,  
Shrirampur, Dist. Ahmednagar.

**..RESPONDENTS**

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Mr.Shaikh Mazhar A. Jahagirdar, Advocate for  
the Applicants.

Mrs. P.V. Diggikar, APP for Respondent/State

Mr. S.S. Panale, Advocate for respondent no.2  
(appointed)

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

**Reserved on : 20.11.2017  
Pronounced on : 05.12.2017**

**ORDER : (Per S.S.Shinde, J.):**

1] This Application is filed with the following prayer :-

"B. The F.I.R. bearing C.R. No.I-203 of 2016 registered with Shrirampur City Police Station, Shrirampur, District Ahmednagar for the offences punishable under Section 306, 498-A, 506 and 34 of the Indian Penal Code, may kindly be quashed and set aside."

2] The learned counsel appearing for the applicants submits that, even if the allegations in the first information report are taken at its face value and read in its entirety, the alleged offences have not been

disclosed. He further submits that, if the allegations in the first information report are carefully perused, there are no specific overt acts attributed to each of the applicants, and there is no specific date or incident mentioned in the first information report. It is further argued that, applicant no.1 is a practicing Advocate at Shrirampur, and remotely related to the in-laws of the deceased and her name has been falsely implicated in the present crime. If the allegations in the first information report are perused, there are no specific role attributed to her about abetting the deceased to commit suicide. She is not residing with the in-laws of the deceased. So far as applicant nos.2 and 3 are concerned, there is no specific role attributed to them and only their names have been mentioned in the first information report. Applicant no.3 is married sister in law of the deceased and applicant

no.2 is her husband. They are residing separately and they have nothing to do with the family of the deceased. The learned counsel therefore submits that, the application may be allowed.

3] On the other hand, the learned A.P.P. appearing for the respondent-State, relying upon the contents of the first information report and the investigation papers, submits that, there are specific allegations against the applicants in the first information report. Therefore, she submits that, the further investigation in the F.I.R. is necessary since alleged offences have been disclosed.

4] Learned counsel appearing for Respondent No.2 submits that, upon perusal of the allegations in the first information report, there are allegations against the applicants that, they have physically and

mentally ill-treated and harassed the deceased saying that, she was not able to do the household work properly, so also she was not able to prepare the food properly. There are also allegations of demand of Rs. 1 Lakh. Therefore, he submits that, the application may be rejected.

5] We have given careful consideration to the submissions advanced by the learned counsel appearing for the applicants, the learned A.P.P. appearing for Respondent-State and the learned counsel appearing for Respondent No.2. With their able assistance, we have perused the contents of the first information report, the averments in the application and annexures thereto.

6] Upon careful perusal of the allegations in the FIR, so far as applicant no.1 is concerned, there are casual reference and general allegations except that she used

to ask deceased Saba to give signatures on the blank stamp paper to facilitate the husband i.e. Samir to take Talaq from the deceased Saba. Admittedly, Farzana is residing separately in Shrirampur town.

7] So far as applicant no.3 is concerned, she is sister-in-law of deceased Saba. She is also residing separately with his husband and family at different places in same town. There are no any specific allegations as such against them. There are casual references. So far as husband, namely, Samir and mother-in-law are concerned, there are allegations of ill-treatment, harassment and illegal unlawful demand of money. However, the husband and mother-in-law are not party applicants in the present Criminal Application.

8] Upon careful perusal of the FIR, it appears that the alleged incident of

commission of suicide by Saba was on 1<sup>st</sup> August, 2016 at about 12.00 noon, and the FIR has been registered on 4<sup>th</sup> August, 2016 at 21.45 hours. Therefore, there is more than three and half days delay in lodging the FIR. Admittedly, deceased Saba left the matrimonial home on 22.12.2015, it appears that the marriage was solemnized on 4<sup>th</sup> October, 2015. Therefore, within two and half months, deceased Saba left matrimonial home and started residing with parent. The alleged incident of suicide had happened in the house of the informant, and not in the matrimonial home. The said incident had taken place after 7 months after deceased Saba left the matrimonial home. To attract the ingredients of Section 107 of the IPC and to constitute Section 306 of the IPC, there should be acts of instigation, conspiracy and abetment attributed to the accused within the proximity of date and time of the incident of

the alleged suicide. In the present case, as already observed, deceased Saba left the matrimonial home on 22.12.2015. There are no further allegations that as a matter of fact accused abetted, instigated or hatched conspiracy which led Saba to commit suicide. Therefore, there are no such act attributed to the applicants from 22.12.2015 till 1<sup>st</sup> August, 2016. Apart from it, even to constitute an offence under Section 498-A of the IPC, the allegations in the FIR are too vague, general in nature and casual, and therefore, the ingredients of the said Section is not attracted, and consequently, the alleged offence under Section 498-A is not disclosed.

9] In that view of the matter, in our considered view, the application of the applicants to their extent deserves to be allowed. The Application is allowed. Accordingly, the First Information Report vide

Crime No.I-203/2016 registered with Shrirampur City Police Station, Shrirampur, District Ahmednagar, for the offence under Sections 306, 498 (A), 506 and 34 of the Indian Penal Code to the extent of the present applicants stands quashed and set aside.

10] The observations made herein above are *prima facie* in nature and confined to the adjudication of the present application only. The other co-accused would not be entitled to derive benefit from the observations made herein above. The trial Court shall not get influenced by the aforesaid observations during the course of trial against other two co-accused.

11] Since, Mr. S.S. Panale, the learned counsel is appointed to prosecute the cause of Respondent No.2, his fees be paid as per the schedule of fees maintained by the High

Court      Legal      Services      Sub-Committee,  
Aurangabad.

**[MANGESH S.PATIL]**  
**JUDGE**

**[S.S.SHINDE]**  
**JUDGE**

DDC