

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

CRIMINAL APPLICATION NO. 7126 OF 2017

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| <p>1. Trupti w/o. Bharat Wani
 @ Trupti d/o. Rajhans Gulve,
 Age : 20 years,
 Occupation : Household,
 R/o. Deogaon Road, Rayte,
 Post Waghapur,
 Taluka Sangamner,
 District Ahmednagar.</p> <p>2. Rajhans s/o. Muktaji Gulve,
 Age : 46 years,
 Occupation : Agriculture,
 R/o. Chondi Vasti,
 At Post : Saikhindi,
 Taluka Sangamner,
 District Ahmednagar.</p> | } | <p>.. Applicants
(Original
accused
Nos.02 & 03)</p> |
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Versus

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| <p>The State of Maharashtra.</p> | } | <p>.. Non-applicant
(Original
Complainant)</p> |
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Mr. Ravindra M. Deshmukh, Advocate, for the applicants.

Mr. S. B. Pulkundwar, Addl. Public Prosecutor, for the non-applicant.

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**CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 19TH APRIL 2018

ORAL JUDGMENT (Per Smt. Vibha Kankanwadi. J.)

1. Rule. Rule made returnable forthwith. By consent, heard finally.
2. Present applicants are the accused No.2 and 3 in Sessions Case No. 343 of 2017 pending before the Ad-hoc Additional District and Sessions Judge – 1, Aurangabad. It is arising out of Regular Criminal Case No.12 of 2017, under Section 306, 323, 506 read with 34 of the Indian Penal Code in Crime No. 232 of 2016, registered with Paithan Police Station Dist. Aurangabad. By this application under Section 482 of the Code of Criminal Procedure, the petitioners/ original accused No.2 and 3 have prayed for quashment of the proceedings against them.
3. The factual matrix leading to the application are that, informant Bhaskar Sakharam Kadam who is resident of Sugaon Budruk Tq. Akole Dist. Ahmednagar is a carpenter. He has two sons namely Yogesh and Nilesh and two daughters namely Ujawala and Sonali. Sonali had completed Nursing Course and joined Government service at Rural Hospital, Paithan. She was working there since last three years. Her marriage was performed on 22-04-2016 with one Ganesh Wakchaure. It is stated that, there was no ill-treatment at the hands of her in-laws and husband. The informant received an information at about 12.00 p.m. on 10-06-2016 from Paithan Police Station stating that his daughter Sonali has

committed suicide in Government Quarter by hanging herself. Thereafter informant, his relatives including a son-in-law i.e. the husband of deceased Sonali went to Rural Hospital, Paithan. Sonali had left a suicide note. After reading the same, he came to know that, one Bharat Abasaheb Wani, Trupti Bharat Wani, and one Raju Gulve (father of Trupti) are responsible for ill-treatment and abetment to commit suicide of Sonali. It was threatened to her that, they will do such activity which will break the marital tie between Sonali and her husband. It was also alleged that, accused No.1 Bharat Wani was meeting her while on duty. Taking into consideration the said suicide note, the informant lodged the FIR and on the basis of said FIR, crime was registered vide Crime No. 232 of 2016, for the offences punishable under Section 306, 323, 504, 506 of Indian Penal Code.

4. Investigation has been carried out, the dead body was sent for post-mortem and the post-mortem report has been collected. statements of witnesses have been recorded. The suicide note and admitted handwriting of the deceased was sent for the report of handwriting expert. After completing the investigation, charge-sheet was filed before Judicial Magistrate First Class, Paithan.

5. After the committal of the case, the case has been numbered as Sessions Case No. 343 of 2017 and it is pending before Ad-hoc

Additional District and Sessions Judge-1, Aurangabad.

6. The applicants, who are accused No.2 and 3, have contended that, they have been falsely implicated in the matter. There are absolutely no allegations against them. Whatever the allegations are, they are against accused No.1 Bharat Wani. Applicant No.1 is the wife of accused No.1 and applicant No.2 is the father of applicant No.1. The statements of the witnesses would also give clear picture that, none of the witnesses have made allegations against the present applicants which will amount to instigate or abet the commission of suicide by deceased. Even the suicide note is against accused No.1. The ingredients of the offence are not attracted at all.

7. The present application has been objected by the State on the ground that, entire evidence has been collected against the present applicants which clearly shows that, both the applicants were harassing deceased. Though main allegations are against accused No.1 as it is stated that there were illicit relations between the deceased and accused No.1, yet the threats those were given by wife of accused No.1 and father-in-law of accused No.1 were also responsible for the deceased taking that decision to end her life.

8. Perusal of the FIR would show that, till the fact was informed about suicide by deceased Sonali, her father had absolutely no idea about alleged harassment or relationship of deceased with accused

No.1. He was under the impression that, everything is fine. He says that, only after the perusal of the suicide note, he came to know about the alleged harassment and illicit relations. The statements of witnesses would show that, main allegations are against accused No.1. The relationship of the present applicants with accused No.1 has been stated in the suicide note also but there are only omnibus statements stating that Trupti Wani (wife of Bharat Wani) and Raju Gulve (father of Trupti) had harassed her. Mere use of word 'harassment' is not sufficient.

9. Interesting enough that the statement of the husband of Sonali namely Ganesh Wakchaure would also show that, he was not aware about any kind of harassment to his wife. Sonali got married to him on 22-04-2016 and Sonali has committed suicide on 10-06-2016. So, the married life of Sonali was of almost 01 month and 18 days. Sonali's husband was a shopkeeper and was resident of Nandur Shingote Tq. Sinner Dist. Nashik. He used to go to Paithan to meet his wife and he says that, he was in Paithan between 26-05-2016 to 31-05-2016. If at all the harassment to Sonali was of such a kind, which will drive her to commit suicide at the hands of the accused persons, then she would have definitely disclosed it to her husband. Further prosecution has not come with a case that, the harassment by all the accused persons started after 01-06-2016 i.e. after Ganesh returned to his village.

10. As regards the allegation about illicit relations between Sonali and Bharat Wani is concerned, informant does not say anything, so also the brother of the deceased, husband also silent on that topic. However, mother of the deceased says that, when enquiry was made with the staff at the hospital, they came to know about illicit relations. Therefore, such statement amounts to hearsay. One witness by name Raju Shinde had made statement regarding alleged illicit relation between Sonali and Bharat Wani but he is silent in respect of any involvement of present applicants. Same is the case with the statements of other witnesses.

11. Therefore, there is absolutely no evidence against the present applicants who are accused No.2 and 3. A broad principals those have been laid down in the case of *State of Haryana and others Vs. Ch. Bhajan Lal and others*, reported in *AIR 1992 Supreme Court 604*, are applicable to the facts of this case, and therefore, we are of the opinion that this is a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) The criminal application is allowed.
- 2) The proceedings in Sessions Case No. 343 of 2017, pending in the Court of Ad-hoc Additional District and Sessions Judge-1, Aurangabad, arising out of Crime No.

I-0232/2016, registered on 10-06-2016, by Police Station, Paithan, District Aurangabad, under Sections 306, 323, 506 read with 34 of the Indian Penal Code, to the extent of Present applicants (original accused Nos.02 and 03, are quashed and set aside.

3) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI) (PRASANNA B. VARALE)
JUDGE JUDGE

vjg/-.