

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION (ST) NO.141 OF 2018

Deepak Ramesh Tugave,
Age: 34 years, Occu: Service,
Residing at Aurad (Shahajani),
Taluka Nilange, District Latur.

..Applicant.

V/s.

The State of Maharashtra

..Respondent.

Ms.Rohini Wagh for the applicant.

Mr.S.S. Pednekar, APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

DATE : APRIL 27,2018

PC.:-

In Sessions Case No.186/2017, the present revision applicant moved an application under section 227 of the Code of Criminal Procedure for discharge, wherein he is prosecuted for an offence punishable under section 306 of the Indian Penal Code vide Crime No.51/2016. The prayer for discharge came to be rejected vide the impugned order dated September 18, 2017. As such this revision application.

2. It is the case of the applicant that the prosecution has implicated him as an accused in a false case. According to him, the complainant Vishnu alleged that the present applicant has driven his daughter, namely Malan, with whom the applicant was having physical relations established out of promise of marriage, to commit suicide. The offence vide Crime No.51/2016 came to be registered.

3. While questioning the order impugned whereby prayer for discharge was rejected, the learned counsel for the applicant, Ms.Rohini Wagh would urge that the applicant is falsely implicated in the crime in question. According to her, necessary ingredients of section 306 of the Indian Penal Code, particularly the intention or act on the part of the applicant in abetting the suicide by deceased Meenakshi cannot be inferred from the entire evidence brought on record. She would urge that the learned Sessions Judge while rejecting the prayer for discharge has failed to consider the said issue in its proper perspective. According to him, lodging of delayed F.I.R. and absence of evidence have not been dealt upon by the learned Sessions Judge. According to her, even if

the case of the prosecution is taken to be correct on its face value without admitting the same, no case or *mens rea* could be established against the applicant. She would then urge that the alleged chit which is found to be the basis for initiation of prosecution cannot be considered and accepted against the applicant when the same was not coming out from the proper custody. According to her, neither there is any material on record to infer love affair of the applicant with the deceased nor the suicide note speaks of the same. The learned counsel for the applicant would rely upon the judgment of the Apex Court in the matter of *Praveen Pradhan V/s. State of Uttaranchal and another*¹ particularly paragraphs 18 and 19 so as to substantiate her contention that there was no instigation on the part of the applicant to drive the deceased Meenakshi to commit suicide.

4. The learned counsel would also rely upon the judgment of the Apex Court in the matter of *S.S.Chheena V/s. Vijay Kumar Mahajan & Another*² so as to submit that there is no abetment on the part of the applicant. In addition to above

¹ (2012) 9 Supreme Court Cases 734

² (2010) DGLS (SC) 595

judgments, the learned counsel would rely upon judgments of Apex Court in the matter of *Chitresh Kumar Chopra V/s. State (Govt. of NCT of Delhi)*³ and *Gangula Mohan Reddy V/s. State of Andhra Pradesh*⁴ and other judgments of Bombay High Court on similar lines. According to her, it is a clear case for discharge.

5. *Per contra*, the learned APP strenuously opposed the claim. According to the learned APP, statements of witnesses namely Malan, mother of Meenakshi, Sonali, sister of Meenakshi and spot panchanama speaks voluminous about *prima facie* involvement of the applicant in the crime in question. According to the learned APP, there is sufficient material on record to infer that the applicant was in relationship with deceased Meenakshi since January, 2014. The other mitigating circumstances about deceased Meenakshi initially staying alone at Pune, applicant, deceased Meenakshi and her sister Sonali having spent some time together as reflected in the statement of Sonali speaks voluminous about the affair of the applicant with deceased Meenakshi. According to him, necessary ingredients of section 306 of the Indian Penal Code could be inferred from the chit left by deceased Meenakshi. He

3 2010 A.,I.R. (SC) 1446

4 2010 DGLS (SC) 13

submits that the present revision application deserves to be rejected.

6. This Court is required to appreciate and deal with the contention *qua* prayer for discharge keeping in mind the limited scope *qua* revisional jurisdiction. Statement of the complainant recorded on June 8, 2016 speaks of deceased Meenakshi as a highly qualified girl and that too independently staying at Pune. The said statement further speaks of assurance of marriage given by the applicant to deceased Meenakshi and thereafter retracting from the said assurance. Statement of mother of deceased, namely Malan, also speaks on similar factual position.

7. Important witness namely Sonali, sister of deceased Meenakshi in clear terms narrated about the relationship of Meenakshi with the applicant. Sonali and Meenakshi having spent some time, together with the applicant, she appears to be an eye witness to the alleged incident of assurance given by the applicant of marriage, to deceased Meenakshi. The spot panchanama speaks of recovery of note which is in handwriting of deceased, wherein a specific and clear role is attributed to the applicant, *qua* his

conduct which has driven the victim to commit suicide.

8. That being so, what could be noticed from record is the applicant has assured deceased Meenakshi of marriage and has also appeared to have established physical relations with her. Apart from above, the applicant refused to marry deceased Meenakshi and has planned to marry somebody else. In the aforesaid background, it is required to be noted that there is direct evidence of sister of deceased Meenakshi, namely Sonali available on record in addition to note left by deceased Meenakshi which clearly attributes role of abetment to the present applicant. There is no other material on record so as to infer that the applicant is falsely implicated in the crime in question. Atleast, the applicant has failed to demonstrate any such case before this Court.

9. In the aforesaid backdrop, if the case in hand is appreciated, there appears to be sufficient material to infer the instigation on the part of the applicant which forced Meenakshi to commit suicide. It is not that in isolation only the suicide note is being based for prosecution of the applicant. As observed, the

statement of Sonali who was residing with deceased Meenakshi in clear terms implicates the applicant to the crime in question. There appears to be sufficient and credible evidence available on record so as to proceed against the applicant. The conduct of the applicant has created such circumstances as could be inferred from the record, which compelled Meenakshi to take extreme step to end her life.

10. Considering the limited scope of the revisional jurisdiction, this Court hardly noticed any case *qua* claim for discharge. The judgments of Apex Court relied upon by the applicant in the matters of *Praveen Pradhan*, *S.S.Chheena*, *Chitresh Kumar Chopra* and *Gangula Mohan Reddy* (*cited supra*) would be hardly of any assistance in the light of the observations made hereinabove from the evidence available on record. In that view of the matter, no case is made out. Revision application dismissed.

(NITIN W.SAMBRE, J.)