

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 336 OF 2017

Mr.Tulshiram Maniram Pardeshi	.. Applicant
Vs.	
State of Maharashtra and anr.	.. Respondents

Mr.Abhishek Avachat, for the Applicant.
Mr.M.S.Mohite a/w Mr.Sanjay S.Patil, for Respondent No.2.
Mr.J.P. Yagnik, APP for State.
PSI - Mr.Somnath Sahebrao Waghmode of Shirur Police Station,
Pune is present.

**CORAM : A.A.SAYED &
M.S.KARNIK, JJ.
DATE : 18th JULY 2018**

JUDGMENT (PER M.S.KARNIK, J.) :

. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing and setting aside the charge-sheet issued against the applicant in Sessions Case No. 30 of 2017 pending in the Court of Additional Sessions Court, Pune.

2. C.R.No. 71 of 2016 was registered against the

applicant and six others on 24/02/2016 under Section 306 read with Section 34 of the Indian Penal Code. The said C.R. was registered at the instance of the first informant - Smt. Mangal Vilas Karanjule. The deceased Vilas was working with the Vidyadham Prashala as a sports teacher for 30 years. The wife of the deceased Vilas, Smt. Mangal has alleged in First Information Report that deceased Vilas had requested for promotion to the post of Supervisor. He however was not promoted. On 17/10/2015 Shri Subhash Vetel (accused No.1)- Head Master called deceased Vilas to the school office. He was made to remain present before the members of the Managing Council (original accused Nos. 2 to 4 and accused Nos. 6 & 7). It is alleged that he was made to submit voluntary retirement application forcibly. Though the voluntary retirement application is dated 17/07/2015, however undated application for voluntary retirement was obtained from him. Thereafter the date viz. 17/07/2015 was written.

The incident in brief in respect of which the applicant is accused is as under:

3. On 10th & 11th October 2015, District Level School sports events were to be held at Baramati. Deceased Vilas and another teacher Kum.Sunita Baburao Mhaske took 10 school girls for participating in the sports events. On 10/10/2015 sports events as regards 7 girls got over. Deceased Vilas as well as the other teacher Kum.Sunita Baburao Mhaske were supposed to take all school girls back to Shirur. However, Kum.Sunita Baburao Mhaske left Baramati and came back home without taking prior permission of the school authority. A separate arrangement had been made for overnight stay of the school girls. The school girls stayed in one of the rooms given to them in the school premises. Deceased Vilas was expected to stay away from the room occupied by the school girls. Deceased Vilas however shared the room as the school girls and stayed overnight in the same room. It is alleged that the deceased Vilas placed his hand on the person of one of the school girls with an ill intention. On the next day deceased Vilas and school girls returned to Shirur. Two of the school girls informed their parents about the happening. The parents of the school girls

complained to the Principal of the school regarding the misbehavior of the deceased Vilas. They also complained about the irresponsible behavior of the other teacher - Kum.Sunita Baburao Mhaske that she left for her home without permission of the school authority and that it was her duty to have taken care of the school girls as a guardian. Therefore they demanded an enquiry.

4. The applicant, one of the accused, is the Secretary of the School Committee. Learned Counsel for the applicant contends that the incident in question regarding the alleged misbehavior of the deceased Vilas with the school girls was on the night between 10th & 11th October 2015. Even if whatever is mentioned in the FIR is taken to be true and correct still the offence under Section 306 IPC is not made out. He invited our attention to the FIR lodged by the wife of deceased Vilas in which she has stated that her husband has put in 30 years of service, despite repeated requests, after making so many applications, deceased was not promoted. She has however

stated that he was on causal leave between the period 15/10/2015 to 17/10/2015. On 17/10/2015 Head Master - Subhash Vetal called the deceased in school office. When deceased Vilas came back home at 9.00 p.m. on the same day, he informed his wife that when he went to school office, the applicant along with other committee members of the school were present. Deceased Vilas was asked to submit his resignation in the light of the incident of his misbehavior with the school girls. It is alleged that deceased Vilas was made to sit in the office for the entire day and not even allowed to drink water.

5. Learned Counsel for the applicant relied upon the decision of the Apex Court in the case of **Vajinath Kondiba Khandke Vs. State of Maharashtra and anr. reported in AIR 2018 Supreme Court 2659** to contend that in order attract the offence under Section 306 of IPC, there must be allegations to the effect the accused had either instigated the deceased in some way to commit suicide or had engaged with some other person

in conspiracy to do so or that the accused had in some way aided any act or illegal omission to bring about the suicide.

6. He also relied upon the following decisions of the Apex Court in support of his submissions.

i) S.S.Chheena Vs. Vijay Kumar Mahajan & anr. 2010 ALL MR (Criminal) 3298(S.C.).

ii) Sanju alias Sanjay Singh Sengar Vs. State of M.P. 2002 CRI.L.J. 2796.

iii) Gangula Mohan Reddy Vs. State of A.P. AIR 2010 Supreme Court 327.

iv) State of Kerala and ors. Vs. Unnikrishnan Nair and ors. AIR 2015 Supreme Court 3351.

v) M.Mohan Vs. State represented by the Deputy Superintendent of Police (2011) 3 SCC 626.

7. Learned Counsel for the applicant also relied upon the decisions of this Court in the case of (i) **Sopan s/o. Angadrao Akele Vs.The State of Maharashtra & anr. reported in 2017 ALL MR (Cri) 1829;** (ii) **Dr.Shivanand s/o. Shivraj**

Biradar Vs. The State of Maharashtra and anr. reported in 2017 ALL MR (Cri.) 1401 and (iii) Dilip s/o Ramrao Shirasao and ors. Vs. State of Maharashtra and anr. reported in 2016(5) Mh.L.J. (Cri.) 323 in support of his submission that when all the acts/allegations attributed to the accused are in his official capacity and the material placed on record unequivocally indicates that the accused in discharge of his official duties had taken some action, it cannot be said that the accused intended or abetted or instigated the deceased to commit suicide.

8. Learned Counsel for the complainant on the other hand contended that the applicant has an alternate efficacious remedy of filing an application for discharge before the Sessions Court as the charge-sheet has already been filed. In the facts of the present case, however, we are not inclined to relegate the applicant to the remedy of filing an application for discharge and therefore we have proceeded to examine the present application on merits.

9. Learned Counsel for the complainant contended that

Vilas was pressurized in submitting his resignation. According to him, entire allegation was orchestrated in such a manner that Vilas was forced to resign. Learned Counsel submitted that he was made to sit in the office for the entire day on 17/10/2015 and he was literally tortured into tendering his resignation. Vilas was therefore completely disturbed and shattered. Learned Counsel invited our attention to the copy of the order dated 07/09/2015 accepting the petitioner's resignation with effect from 17/10/2015 which according to him is back-dated and thus alleged manipulation of the record.

10. Learned Counsel also invited our attention to the statement of Smt.Laxmi Mohan Chavatmal recorded on 25/02/2016. In the said statement Smt.Laxmi Chavatmal has stated that Vilas met her on 23/02/2016 and narrated the incident about the false allegations made by the Management as regards misbehavior with the girls. She stated that the Management brought pressure on Vilas only because he requested for promotion from time to time. She further stated

about Vilas informing her that tremendous pressure was brought on him to resign and he was forced to submit an undated resignation.

11. Learned Counsel for the complainant also pointed out that even thereafter Vilas had requested the Management to take him back in service but he received no response.

12. Having heard learned Counsel, the allegation even if taken to be true would at the highest mean that Vilas was forced to resign. It is alleged that on 17/10/2015 Vilas was made to sit in the office of the school Management from 11.00 a.m. and he came back home at only 9.00 p.m. and that the members of the Management Committee including the applicant pressurized Vilas to submit his resignation. It is alleged that the incident was orchestrated so as to compel him to tender the resignation.

13. It is pertinent to mention that the teacher Kum. Sunita Baburao Mhaske who had accompanied Vilas had also tendered her resignation. The incident in question which left

Vilas disturbed took place on 17/10/2015. Vilas committed suicide on 23/02/2016 by hanging himself from the ceiling of his house. It is alleged that Vilas was pressurized on 17/10/2015 to submit his resignation and he was virtually tortured into submitting his resignation by making him sit in the office for the entire day and by creating a false story of misbehavior with the school girls. It is alleged as a result of humiliating treatment and the torture, Vilas committed suicide.

14. In our opinion, the present application deserves to be allowed. Vilas committed suicide almost 4 months after the incident on 17/10/2015. Assuming that Vilas was pressurized in submitting his resignation on 17/10/2015, in our opinion, this allegation by itself is not at all sufficient to establish that the applicant had either instigated the deceased in some way to commit suicide or had engaged with some other person in conspiracy to do so or that applicant had in some way aided any act or illegal omission to bring about the suicide. It is pertinent to mention here that no suicide note was left behind by the

deceased. The material on record is in the form of assertion made by his wife in her reporting to the police. From the allegation on record at the highest it may be established that the applicant along with accused forced Vilas into submitting his resignation. In our opinion, this is not at all a situation created deliberately to drive Vilas to commit suicide. The facts on record in the present case are completely inadequate and insufficient to attract Section 306 IPC. In the light of the complaints made by the parents of the girl-students alleging misbehavior against Vilas, it may be that Vilas was called to the school whereupon he was forced to resign. In our view there is absolutely no room for invoking provisions of Section 306 of IPC. The continuation of criminal proceedings against the applicant who is presently 83 years of age would be an abuse of process of law.

15. In the light of law laid down by the Apex Court, we are satisfied that the applicant, who was the Secretary of the Institution is no way responsible for creating a situation deliberately so as to drive Vilas to commit suicide and therefore

in the present case there is no room for attracting Section 306 of IPC.

16. As indicated earlier, along with Vilas, the other teacher – Kum.Sunita Baburao Mhaske who had accompanied him and against whom also allegations are made had also resigned from the service. In this view of the matter, we are of the firm view that interest of justice demands that the proceedings initiated against the applicant are required to be quashed. Hence, the following order.

ORDER

The Criminal Application is allowed in terms of prayer clause (A), which reads as follows:

“(A) That this Hon'ble Court may be pleased to quash and set aside the charge sheet against the Applicant in Sessions Case No.30/2017 pending in the Court of Additional Sessions Judge, Pune;”

(M.S.KARNIK, J.)

(A.A.SAYED, J.)