

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.556 OF 2018

Shri. Namdeo Govind Halkander & Anr.

... Applicants

Vs.

State of Maharashtra
Through Senior Police Inspector,
Peth Police Station, Nashik

... Respondent

.....

Mr.Ajay Laxman Bhise for the Applicants.
Mr.A.R.Patil, APP for the Respondent – State.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 27, 2018**

P.C.:

1. This Criminal Revision Application is directed against the order dated 14.08.2018 passed by the learned Addl. Sessions Judge-7, Nashik, thereby rejecting the application below exhibit 41 filed by the present applicants in S.C. No. 328 of 2017.
2. The applicants/accused are the original accused Nos. 4 and 5.
3. In the present case, one deceased Purushottam Bhikaji Chaudhary had committed suicide on 21.04.2017 leaving behind a suicide note, in which he blamed that his name was unnecessarily

associated with one girl Kusum Motiram Jadhav, who was his classmate. Kusum Jadhav and her parents were pressurized the deceased for a marriage. Therefore, they were telling about the alleged relationship between Kusum Jadhav and the deceased Purushottam to other people in public. Thus, due to this defamation and harassment, he committed suicide. Kusum Jadhav and her parents are made accused in the case along with the applicants/accused. The applicants/accused are not the relatives of Kusum Jadhav, but applicant No.1 is a leader of the political party, who had contested the election against the first informant, who is father of the deceased Purushottam. Applicant No.2 is also a member of the other political party, who helped the first applicant in contesting the election. The allegations made by the first informant and other witnesses that the applicants/accused have lost assembly election of 2017 and, therefore, out of the vengeance, they decided to malign the reputation of the family of the first informant. They conspired with Kusum Jadhav and her relatives and planned to bring the family of the first informant to disrepute by making false allegations on the character of the deceased Purushottam.

4. The learned counsel for the applicants/accused has submitted that the names of the applicants/accused are not mentioned in the suicide note by the deceased Purushottam, but the names of Kusum Jadhav and her relatives are mentioned. He has further submitted that

with a view to settle the political rivalry, the first informant intentionally involved the applicants/accused in this case. There is no evidence to frame charge against the applicants/accused much less under Section 306 of the Indian Penal Code ("the IPC"). In support of his submissions, he has relied on the judgment of the Supreme Court in the case of ***State of Orissa v.. Debendra Nath Padhi*** reported in **(2005) 1 SCC 568**.

5. The learned APP for the respondent has relied on the statements of the first informant and other witnesses. He has pointed out that when there is material on record, then it is to be accepted against the accused at the stage of discharge.

6. On perusal of the record before the Court, it is found that in F.I.R. and in the statements of the witnesses, the names of the applicants/accused are mentioned that they used to harass the deceased Purushottam by calling him on phone. The applicants/accused also conspired with Kusum Jadhav and her relatives and made false allegations having a relationship with Kusum Jadhav and also pressurized the deceased Purushottam to marry her.

7. This application is to be considered with two angles. Firstly, whether there is any evidence contemplated under Section 306 of the

IPC and secondly, glaring inconsistency in the statements and the record of the prosecution.

8. In the case of **Debendra Nath Padhi** (*supra*), the Supreme Court while deciding the discharge application filed by the accused under Section 91 of the Code of Criminal Procedure (“the Cr.P.C.”) has observed that at the stage of discharge, the Court can consider only the material produced by the prosecution.

9. Section 227 of the Cr.P.C. reads as under :

“Discharge.-If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing”.

10. In Section 227 of the Cr.P.C., the term “consideration of the record of the case and the documents submitted therewith” is used. Thus, it excludes other documents i.e., documents produced by the accused and limits the scope to the documents filed by the prosecution, which are on record.

11. In the present case, I am not taking into account any document, but the documents which are produced and relied by the prosecution only.

12. While deciding Section 306 of the IPC., the Court needs to consider the ingredients of abetment under Section 107 of the Cr.P.C.. There should be abetment, instigation and private aid in the commission of an offence of suicide by the accused. There should be evidence on record to show that a person was harassed so much that he was driven to the point of commit suicide. Such evidence is to be placed on record. The allegations of general harassment without disclosing abetment, aid or instigation driving the deceased to the point of commit suicide will not bring the ingredients of abetment.

13. In the present case, there are general allegations and there is nothing to show on record that threat or torture caused by the applicants/accused to the deceased Purushottam to commit suicide.

14. It is to be noted that the police have relied on the suicide note of the deceased Purushottam, in which he has not said a word against the applicants/accused. In the said note, the names of the applicants/accused are not mentioned. On the other hand, the first informant and other witnesses, who are close relatives of the first

informant i.e., his wife, his son and daughter-in-law, have stated about harassment and conspiracy against the applicants/accused. However, the words used in their respective statements are identical. It is to be noted that the first informant having a political rivalry against the applicants/accused, as they both have lost assembly election of 2017. Moreover, the first informant has not taken any step against the applicants/accused when he came across such defamation or harassment of the deceased Purushottam at their hands.

15. On the background of the suicide note and the statements of the first informant and other witnesses, it is necessary to clarify that perception of the deceased about the harassment and the torture matters than the perception of other people about torture given to the deceased. The relatives may hold XYZ is responsible for commission of suicide by their dear one. The deceased may commit suicide due to harassment or threat given by 'A' and his relatives may perceive a behaviour of 'B' is the cause to commit suicide. In the present case, the deceased has perceived harassment and torture at the hands of Kusum and her relatives and he has not committed suicide due to alleged overt act of harassment or torture given by the applicants/accused.

16. Under such circumstances, no charge can be framed against the applicants/accused. There is no material on record to frame charge

against the applicants/accused under Section 306 of the IPC. Hence, both the applicants/accused are discharged.

17. Criminal Revision Application is allowed in terms of prayer clause (b).

(MRIDULA BHATKAR, J.)