

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION (REVN) 124 OF 2015

(Vaishali R. Tarale...vs.. State, thr PSO, Civil Lines, PS Akola & anr)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri S.V. Sirpurkar, counsel for the applicant.
Shri C.A. Lokhande, APP for respondent / State

CORAM: ROHIT B. DEO, J.

DATE: 15th June, 2018.

Heard.

2 The applicant, who is facing trial for offence punishable under section 306 of the Indian Penal Code in Session Trial 93 of 2015 moved an application under section 227 of the Indian Penal code seeking discharge. The said application is rejected by the learned Assistant Sessions Judge by order dated 4.7.2015.

3 The deceased Rajendra was the husband of the applicant. It is the case of the prosecution that, Rajendra committed suicide on 13.7.2017. The father of the deceased lodged First Information Report on 10.8.2017 on the basis of which the offence is registered.

4 The submission of the learned counsel for the applicant is that even if the entire material on record is taken at face value, the ingredients of offence punishable under section 306 of the IPC are not even prima-facie established. The learned counsel would submit that the material on record is not sufficient even to raise a suspicion

much less strong or grave suspicion and it would be absolutely unjust to force the applicant to face the trauma and rigmarole of a trial which is bound to culminate in acquittal.

5 The submission of the learned counsel Shri S.V. Sirpurkar is well founded.

6 I have perused the photocopy of the suicide note on record. The learned APP Shri C.A. Lokhane fairly states that the original suicide note is missing. Be that as it may, even if photocopy of the suicide note is considered, the only statement is that the applicant is responsible for the death. In the same breath, the deceased states that the applicant should not be punished in as much as punishing the applicant would be punishing the child, which was then in her womb.

7 I have perused the First Information Report. The only accusation against the applicant is that she used to threaten her husband that she would leave the matrimonial home. According to the informant, his son Rajendra wished to stay with the informant, to which the applicant was objecting. There were frequent quarrels between the applicant and her husband deceased Rajendra over the said issue, is the allegation.

8 The material on record, even if taken at face value, is not sufficient to even prima facie establish ingredients of section 306 of Indian Penal Code. The element of *mens rea* is conspicuously absent. The fact that the deceased states in the suicide note that the applicant is

responsible for the death is too fragile a material to frame charge. The statement of the witnesses, even if taken at gospel truth, do not suggest that the applicant intended to force the deceased Rajendra in a situation where he would be left with no option but to take the extreme step. The only allegation is there were quarrels between the applicant and the deceased since the deceased wished to reside with his father, and the applicant was not inclined.

9 Considering the material on record, there is no room even to raise a grave suspicion. Under the circumstances, a trial would be futile and to force the applicant to face a traumatic trial would be manifestly unjust. This court is convinced that even if the entire material is taken at face value, the offence punishable under section 306 of the Indian Penal Code is not even prima facie made out.

10 The application is allowed.

11 The order dated 4.7.2015 is set aside. The applicant is discharged.

JUDGE

RS Belkhede