

**THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION No.6543 OF 2015

Priyanka Jayprakash Kabra
And two others.

.. Petitioners.

Versus

The State of Maharashtra
And others.

.. Respondents.

Shri. S.G. Ladda, Advocate, for petitioners.

Shri. S.P. Tiwari, Assistant Government Pleader, for
respondent No.1.

Shri. V.V. Kabade, Advocate, holding for Shri. S.S.
Gangakhedkar, Advocate, for respondent No.4.

With

CRIMINAL WRIT PETITION No.957 OF 2015

Dr. Nayan s/o Dilip Mukherjee.

.. Petitioner.

Versus

The State of Maharashtra
And others.

.. Respondents.

Shri. S.S. Panale, Advocate, for petitioner.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for respondent No.1.

Shri. V.V. Kabade, Advocate, holding for Shri. S.S. Gangakhedar, Advocate, for respondent No.2.

Shri. L.V. Sangeet, Advocate for respondent No.3.

Shri. R.R. Chandak, Advocate, for respondent Nos.4 to 6.

**Coram: T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

Date: 25 FEBRUARY 2019

ORDER (Per T.V. Nalawade, J.):

1) The first petition is filed by three students against whom order of imposing penalty of Rs.one lakh each is passed by the disciplinary authority created under Regulations of 2009 of the Medical Council of India. both the sides are heard.

2) The submissions made and the record show that the petitioners and the deceased girl were room-mates in the hospital of respondent No.2. They were admitted for M.B.B.S. course by respondent No.2 in the year 2013. The deceased had come from West Bengal and the petitioners are residents of Maharashtra. On 25-5-2014 the deceased committed suicide in the room where

the petitioners and the deceased were staying as room-mates by hanging herself. The registry of the college gave report about the incident and A.D.No.19/2014 was registered in respect of this death. During inquiry of the A.D. police recovered a suicide note left behind by the deceased in which she had blamed the three petitioners of the first proceeding. Subsequently her father came from West Bengal. He also learnt about the suicide note. He gave report against the present petitioners that they had abetted the suicide of his daughter and the crime came to be registered for offence punishable under section 306 read with 34 of Indian Penal Code and also under section 4 of the Maharashtra Prohibition of Ragging Act, 1999. Case was filed in the said matter for the aforesaid offences.

3) In view of the aforesaid Regulations some inquiry was made and the three petitioners were rusticated. They filed writ petitions in this Court and as there was no inquiry made by properly constituted committee the order of penalty was set aside and the matter was remanded back. Then a proper committee was

constituted as per the aforesaid Regulations and inquiry was held. In the inquiry, father of the deceased gave written say. Some witnesses from Maharashtra who were mainly the staff members were examined. The record like copy of suicide note left behind by the deceased and copy of F.I.R. given by the father were produced before the committee. After giving hearing to the petitioners the committee passed the aforesaid order of penalty. It appears that they filed an appeal before the Vice Chancellor. Under the aforesaid Regulations there is no provision of appeal and so the order made by the committee was final order. In view of these circumstances, this Court has heard the present proceeding, Writ Petition No.6543/2015, as proceeding filed against the order of penalty passed by the committee.

4) The second proceeding is filed by father of the deceased and he has prayed for enhancement of the penalty. Though it is registered as a criminal writ petition, in view of nature of the order of the committee this writ petition was heard along with the civil writ petition for the same purpose.

5) Learned counsel for the petitioners, students placed heavy reliance on the decision given by the Sessions Court in Sessions Case No.183/2014. He submitted that the petitioners are acquitted in the case which was filed on the basis of the F.I.R. given by the father for offences punishable under section 306 read with 34 of Indian Penal Code and Section 4 of the Maharashtra Prohibition of Ragging Act, 1999 and this circumstance needs to be considered by this Court and also by the committee constituted under the aforesaid Regulations. This Court holds that there is no force in this submission. The standard of proof in criminal case is different than the standard of proof required in the inquiry conducted by the committee. Before the committee the witnesses who were from Maharashtra stated that there was no whisper about the harassment to the deceased at the hands of the petitioners. They gave statements that the deceased had never complained to them for anything against the present petitioners.

6) This Court has carefully gone through the say given before the committee by the petitioners. In the say

they have contended that the deceased had affair with a boy from West Bengal and probably to keep her out of contact of the said boy the deceased was admitted at different place like Maharashtra by her father and due to that the deceased was not happy. In the present proceeding they produced a photo copy of the photograph of the deceased which was taken with the boy and one photo copy of the photograph of the deceased taken with two of the present petitioners. In this background, the suicide note needs to be considered. It is not disputed that the deceased left behind such suicide note. This suicide note was recovered by police well before arrival of the father of the deceased from West Bengal. In the suicide note the deceased disclosed that she was frustrated due to the conduct of the present petitioners. She contended that the present petitioners had destroyed over everything her happiness, her career and her reputation. In the suicide note she had requested her father to see that the petitioners learn lesson for the harassment which they had given to the deceased. She had mentioned that two petitioners like Priya and Priyanka had tortured her lot and they had mentally forced her to take such step. Then

the deceased had addressed to the three petitioners and she had contended that they had destroyed her career and the dreams of her parents.

7) In addition to the last disclosure in the suicide note, there is copy of F.I.R. given by the father of the deceased. He gave written statement before the committee to the effect that the deceased had disclosed to him that the petitioners were harassing her unnecessarily. They were calling her fat and they were throwing water on her bed to harass her. He had also disclosed that as the deceased was not able to speak Marathi, the petitioners were harassing her, they were preventing her from using phone in the room etc.

8) As already observed, the committee is required to take decision after following principles of natural justice and only probability is required to be considered by the committee. It is a matter of subjective satisfaction for the committee. In such cases the Court is not expected to interfere in the matter if there was material before the committee for such subjective satisfaction.

9) The incidents of harassment of students coming from outside are increasing day by day. Due to such incidents, the Maharashtra Prohibition of Ragging Act, 1999 came to be enacted in this State. The aforesaid Regulations were made by Medical Council of India to see that ragging is stopped in medical colleges. It is noticed that boys and girls coming from other States suffer more than the boys and girls of this State when they are living in hostels. In most of the cases students from the native State try to overpower and control the students who come from other States and the disputes start. On one hand there is pressure on such students of the desire of their parents and they also think that parents are spending huge amount on their education and so they go on tolerating the harassment. There is limit to everything. In the cases like the present one when the colleagues, room-mates start spreading rumours and start damaging the reputation particularly of girls students, the girl students opt for extreme step. Thus ordinarily such step taken by the students is due to the harassment and such inference is possible for the committee conducting inquiry for imposing the penalty. The decision given by the Criminal

Court cannot help the students who are responsible for such death. Such harassment is covered by the aforesaid Regulations and the penalty is specifically provided in those Regulations. This court holds that it is not possible to interfere in the order made by the committee. In the result, Writ Petition No.6543 of 2015 stands dismissed.

10) The criminal writ petition filed by the father of the deceased also cannot be allowed as the submissions made and the record show that due to the first order of rustication made by the authority these students lost one academic year. Though the order of rustication was set aside due to the present proceeding they were required to pay Rs. One lakh each as a penalty and that amount is already deposited. So, the criminal writ petition also needs to be dismissed. In the result, Criminal Writ Petition No.957 of 2015 also stands dismissed.

Sd/-
(SUNIL K. KOTWAL, J.)

Sd/-
(T.V. NALAWADE, J.)

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