

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

**CRIMINAL APPLICATION NO. 3458 OF 2018**

1. Dhammapal S/o Pratap Kamble,  
Age:35 Years, Occu.- Business [Tailoring],  
R/o.: Shivchatrapati Chowk,  
Behind Vitthal Rukmini Temple,  
Mhalunge Pune, Tq. & Dist. Pune. ... **Applicant**

Versus

1. State of Maharashtra,  
Through Mahur Police Station,  
Mahur, Tq. & Dist. Nanded.
2. Amardeep S/o Pralhad Damodhar,  
Age 28 years, Occ. Service,  
R/o.: Pophali, Tq. Umarkhed,  
Dist. Yavatmal,  
At present R/o. Nigdi, Rupeenagar, Mawal,  
Tq. Mawal, Dist. Pune. ... **Respondents**

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Mr. S.A. Nagarsoge, Advocate for the Applicant.  
Mr. S.B. Yawalkar, A.P.P. for respondent no.1-State.  
Ms. Sharda P. Chate, Advocate for Respondent No.2. (Appointed)

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**CORAM : T.V. NALAWADE &  
MANGESH S. PATIL, JJ.**  
**DATE : 20.03.2019**

**JUDGMENT :- (Per: Mangesh S. Patil, J.)**

Heard. Rule. Rule is made returnable forthwith. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The petitioner who is accused no.4 in Crime No.107 of 2018 registered with Mahur Police Station, District Nanded for the offences punishable under Section 306, 323, 498-A, 504, 506 read with Section 34 of the Indian Penal Code, registered on the basis of the F.I.R. lodged by the respondent no.2, is seeking quashment of the crime as well as the charge-sheet.

3. According to the respondent no.2, the deceased was his sister. Her marriage was solemnized on 27.04.2003. She beget couple of children out of the wedlock. It is alleged that since three years of her marriage her husband started suspecting her fidelity and on that count he used to assault her under the influence of liquor. She used to be consistently under mental pressure. Her in-laws were also harassing her. Attempts were made to bring about some settlement but to no avail. As far as the applicant is concerned, it is alleged that he had told his wife of having illicit relations with the deceased and he was having an audio recording about it. Having learnt about it the applicant's wife and her parents approached the deceased and questioned her in presence of the villagers because of which she felt insulted. On that count her husband started assaulting her. Her husband thereafter in presence of few witnesses executed a writing thereby undertaking not to ill-treat the deceased and therefore she was sent with him for cohabitation. However on 22.08.2018 she consumed poison and ended her life.

4. The learned advocate for the applicant vehemently submits that accepting the allegations in the F.I.R. at their face value, no precise and specific role can be attributed to the applicant much less of abetting suicide by the deceased or subjecting her to cruelty. All those allegations are directed against her husband and he had not played any role in that respect. Therefore applying the principles laid down in the case of **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604**, the applicant is entitled to seek the benefit and the crime as well as the proceeding initiated on that basis be quashed and set aside.

5. The learned A.P.P. and the learned advocate for the respondent no.2 oppose the application. They submit that at this juncture no minute scrutiny is necessary and can be resorted to. The applicant had triggered the cause which ultimately led the deceased to commit suicide by defaming her of having illicit relations with her. Therefore the crime and the proceeding should not be quashed.

6. We have carefully considered the F.I.R. as well as the statements of several witnesses. As far as the F.I.R. is concerned the only allegation against the applicant is about he having allegedly told his own wife about having illicit relations with the deceased and he had an audio recording to prove that. However, accepting this version to be true we cannot comprehend

as to how it would *ipso facto* constitute abetment within the meaning of Section 107 of the Indian Penal Code. It would not constitute either instigation or intentional aid.

7. It is alleged that after the applicant had told his wife about the illicit relations, his wife and her parents had approached the deceased and questioned her in front of the villagers. The witnesses consist of the parents of the deceased, who have no personal knowledge what the applicant had told his wife. They have also not leveled any other allegations against the applicant. Similarly there are statements of several other witnesses on the same lines and none of them have specifically stated about either the applicant having directly instigated the deceased to commit suicide or was intending that his act or omission should lead her to commit suicide. In our considered view, therefore, the case of the applicant is squarely covered by the category nos. 1 and 3 of the **Bhajan Lal's** case (supra) and the application deserves to be allowed.

8. The application is allowed in terms of prayer clause 'B' and 'B1'.

9. The rule is made absolute in those terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]