

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

CRIMINAL APPLICATION (APL) NO. 614 OF 2014

1. Nilesh S/o. Vishnuji Dekate,
Aged about 31 years, Occ.: Pvt. Service,
2. Vishnuji S/o. Pandurangji Dekate,
Aged about 64 years, Occu.: Retd.,
Govt. Servant
3. Sou. Pushpa W/o. Vishnuji Dekate,
Aged about 54, Occu. Housewife,
All R/o. Hingni, Tq. Seloo,
District : Wardha.

.... **APPLICANTS.**

// VERSUS //

The State of Maharashtra,
through Police Station Officer,
Police Station, Seloo, Tah. Seloo,
Dist. Wardha.

.... **NON-APPLICANT.**

Shri A.S.Ambatkar, Advocate for Applicants.
Shri T.A.Mirza, A.P.P. for Non-applicant/State.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : DECEMBER 18, 2020.

ORAL JUDGMENT : (Per : Amit B. Borkar, J.)

1. Heard.

2. By this application under Section 482 of the Code of Criminal Procedure the applicants are challenging First Information Report No.66 of 2014 dated 26th March 2020, registered with Non-applicant No.1 Police Station for the offences punishable under Section 306 read with Section 34 of the Indian Penal Code.

3. First Information Report came to be registered against the applicants on 25th March 2014. It was alleged in the First Information Report that wife of applicant No.1 Disha Nilesh Dekate consumed poison on 20th March 2014 and she died on 24th March 2014. The applicant No.1 is husband, applicant No.2 is father-in-law and applicant No.3 is mother-in-law of the deceased. It is alleged in the First Information Report that the deceased committed suicide due to harassment caused by the applicants and therefore, the First Information Report was registered against the applicants.

4. The applicants challenged First Information Report by filing the present application and this Court on 28th January 2015 issued Rule and granted interim relief in terms of prayer clause (ii), thereby granting stay to further investigation of the First Information Report.

5. The non-applicant filed reply and stated that the deceased committed suicide due to ill-treatment given by the applicants. There is *prima-facie* material against the applicants and therefore, it is prayed that the application be dismissed.

6. We have heard Shri A.S.Ambatkar, learned Advocate for the applicants and Shri T.A.Mirza, learned A.P.P. for the non-applicant.

7. Shri A.S.Ambatkar, learned Advocate for the applicants submitted that from the averments in the First Information Report, the ingredients of the offence under Sections 498-A and 306 are not made out. He submitted that the marriage was performed on 20th December 2005 and the instant incident had occurred after a period of 9 years. He further submitted that from the averments in the First Information Report there is no instigation nor there is any proximate event which prompted the deceased to commit suicide. He further submitted that the First Information Report registered against the applicants deserves to be quashed and set aside.

8. Shri T.A.Mirza, learned A.P.P. stoutly objected for grant of relief in favour of the applicants. He submitted that the averments in the First Information Report and the material on record is sufficient to continue the trial against the applicants. He, therefore, prayed that the application deserves to be dismissed.

9. We have scrutinized the contents of the First Information Report, reply filed by the non-applicant and the material on record. After evaluation of the First Information Report and the material on record, *prima-facie* we do not find that the averments in the First Information Report constitute offence punishable under Section 498-A or under Section 306 of

the Indian Penal Code. The allegation about physical harassment in the First Information Report is vague in nature. There is no averment regarding intentional instigation by the applicants which propelled the deceased to commit suicide.

10. It is further required to be noted that the daughter born out of the wedlock of the applicant No.1 with the deceased is with the applicants and the applicants are taking care of the daughter of the applicant No.1.

11. Having considered the averments in the First Information Report, we are satisfied that the averments, even if accepted to be correct, would not constitute offence under Section 498-A or Section 306 of the Indian Penal Code. We do not find any *mens rea* from the averments in the First Information Report. Therefore, this is a fit case where power under Section 482 of the Code of Criminal Procedure needs to be exercised.

12. We, therefore, pass the following order:

First Information Report No.66 of 2014, dated 26th March 2014, registered against the applicants with Police Station, Seloo, District : Wardha for the offences punishable under Sections 498-A and 306 read with Section 34 of the Indian Penal Code is quashed.

The Criminal Application is **allowed** in the above terms.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)