

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

CRIMINAL APPLICATION (APL) NO. 577 OF 2015

Pramod S/o Shriram Wath,
aged 46 yrs. Occ. Agriculturist,
R/o Dabha, Tq. Nandgaon Khd.,
District -Amravati.

APPLICANT

Versus

1.State of Maharashtra,
Through the Police Station Officer,
Police Station Badnera.
District – Amravati.

2.Vipul S/o Prabhudas Nadiyna,
Aged 41 years,
Occ. Business,
R/o Jaistambha Chowk,
Navi Basti,
Badnera, Tq. &
Distt. Amravati.

NON-APPLICANT

Shri Ankit S.Ambatkar, Advocate for the applicant.

Shri S.D.Sirpurkar, APP for the respondent no.1.

Shri Parvez W.Mirza, Advocate for respondent no.2.

...

CORAM: Z. A. HAQ AND
AMIT B. BORKAR, JJ.
DATED: 02.03.2021

ORAL JUDGMENT (PER : AMIT B. BORKAR, J.) :

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicant has challenged registration

of the First Information Report No.187/2014 and consequent charge-sheet No.31/2015 in relation to the offence punishable under Section 306 of the Indian Penal Code.

2. The First Information Report came to be registered against the applicant with the accusations that the applicant had entered into an agreement of sale with the victim for sale of immovable property and had accepted an amount of Rs.50,51,000/-. It is further alleged that three persons namely Ravi Patel, Anil Hinge and Anil Sune, acted as agents for the said transaction. It is further alleged that said three agents provided false information to the victim compelling him to purchase agricultural land without disclosing defects in title of the applicant. It is further alleged that in spite of defects in the property, the applicant alongwith three agents forced and coerced the Victim for execution of sale-deed. Thereafter the applicant alongwith three agents told the victim that if the deal with the applicant is cancelled, they will return the amount of Rs.20,00,000/- from the earnest amount of Rs.50,51,000/-. Thereafter by Cancellation Deed the agreement dated 24.6.2014 was cancelled and the victim was paid only an amount of Rs.20,00,000/- out of Rs.50,51,000/-. It is alleged that the victim had incurred an amount of Rs.7-8 lakhs for

the purpose of drawing layout in the said property. It is alleged that due to loss of Rs.37-38 lakhs caused to the victim, the victim could not handle the mental stress and, therefore, committed suicide. It is alleged that the police got suicide-note wherein it was stated by the deceased that he is committing suicide due to harassment caused by the applicant and other three agents.

3. The applicant has challenged registration of the First Information Report by filing present application. On 16.9.2015, this Court issued notice to the non-applicants and on 20.7.2016 issued Rule and granted stay to further proceedings insofar as the present applicant is concerned.

4. The non-applicant no.1 has filed reply and has stated that due to non-payment of amount of earnest amount of Rs.50,51,000/- by the applicant and three agents, the victim committed suicide by consuming poison and left the suicide-note. It is stated that the Investigating Agency has recorded statement of wife of the deceased, daughter and other relatives, wherein they have supported the case of the prosecution. It is stated that due to loss caused to the victim in the transaction with the applicant and others, the victim committed suicide and, therefore, the applicant has indirectly instigated the deceased for committing suicide.

5. We have carefully considered the allegations in the First Information Report. Upon careful perusal of the allegations in the First Information Report and material produced on record, we find that there is no material or even the allegation to show that the applicant has either instigated or intentionally aided the victim to commit suicide. There is no active act or direct act committed by the applicant which laid victim to commit suicide nor there is any allegation or proof that the applicant intentionally pushed victim into such position that he committed suicide.

6. A useful reference can be made to the decision of the Apex Court in the case of **Ramesh Kumar Vs. State of Chhattisgarh reported in (2001) 9 SCC 618**. The Apex Court in the context of the ingredients of Section 306 of the Indian Penal Code has laid down as under:

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in

the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

21. *In state of West Bengal V. Orilal Jaiswal and Anr. [1994] 1 SCC 73, this Court has cautioned that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty”.*

7. The Apex Court in the case of ***Madanmohan Singh Vs. State of Gujarat and another*** reported in ***(2010) 8 SCC 628*** quashed the F.I.R. mainly on the ground that the deceased committed suicide after 7 days from the date of suicide note. It is held that there was no nexus between suicide and any of the alleged acts on the part of the appellant therein. It was held that there is no proximity between both the events. It is held that in case of prosecution under Section 306 of the Indian Penal Code, much more material is required and, therefore, unless there is specific allegation and material of definite nature, it would be hazardous to ask the accused to face the trial. It

is held that a criminal trial is not exactly a pleasant experience”.

8. The case of present applicant stands on better footing than the facts in the case of ***Madan Mohan Singh*** (supra). In the facts of the present case, there is no allegation, which constitutes offence under Section 306 of the Indian Penal Code. There is no material produced by the prosecution on record, which prima facie fulfills ingredients of offence under Section 306 of the Indian Penal Code alleged against the applicant.

9. We have carefully considered the suicide-note produced on record by the prosecution. In the suicide-note produced on record by the prosecution, the names of three agents are mentioned. In the said suicide-note, there is no specific role attributed to the applicant. In our opinion, there is no active role of the applicant either directly or indirectly causing mental stress to the victim to commit suicide and, therefore, First Information Report alongwith material produced by the prosecution is not sufficient to fulfill the ingredients of offence punishable under Section 306 of the Indian Penal Code.

10. On overall perusal of the First Information Report and the material placed before us makes out prima facie case in favour

of the applicant that the allegations in the First Information Report and the material placed before us do not fulfill the ingredients of Section 306 of the Indian Penal Code. We are, therefore, of the view that the continuance of present proceedings against the applicant would amount to abuse of process of Court. Hence, we pass the following order:

ORDER

- (i) Criminal Application (APL) No.577/2015 is allowed.
- (ii) First Information Report No.187/2014 registered against the applicant with the non-applicant – Police Station for offence under Section 306 read with Section 34 of the Indian Penal Code registered with the non-applicant - Police Station and consequent Charge-sheet No.31/2015 are quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

JUDGE