

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

CRIMINAL WRIT PETITION NO. 1791 OF 2019

1. Shashikant s/o Shivanand Gulave
Age : 57 years, Occu. : Service
(Senior Manager H.R.)
R/o. 'Shivbhusan' Plot No. 05
Near Dwarkanagari,
Balikaashram Road, Ahmednagar
 2. Ramanna s/o Hanappa Choudki
Age : 66 years, Occu. : Retired
Vice President Works (KEL)
R/o. Chandan Estate, Burudgaon Road
Ahmednagar
- .. Petitioners

Versus

1. The State of Maharashtra
Through Police Station Officer
Kotwali Police Station,
Ahmednagar, Dist. Ahmednagar
 2. Lata Madhukar Vairal
Age : 50 years, Occu. : Household
R/o. Madhav Nagar, Kedgaon,
Ahmednagar
- .. Respondents

Mr. Rajendra Deshmukh, Senior Advocate a/w Mr. Govind A. Kulkarni and Ms. Suchita K. Kothule i/by Devang R. Deshmukh, Advocate for the Petitioners.

Smt. D. S. Jape, APP for Respondent No. 1.

Mr. Rahul B. Temak, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 05th DECEMBER, 2022.

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith.

2. By consent of the parties, taken up for hearing.
3. Heard learned advocate for the petitioners, learned A.P.P. for respondent No. 1/State and learned advocate for respondent No. 2.
4. At the outset, both the parties have invited attention of this Court to a compromise pursis filed by the original informant and the petitioners on 04.12.2019 and prayed that the writ petition be disposed of in view of the said compromise.
5. The respondent No. 2 also accepts the terms of compromise and has no objection.
6. This is the writ petition arising out of the offence registered with Kotwali Police Station, Ahmednagar on the basis of information lodged by respondent No. 2 dated 25.02.2011 for the offences punishable under Sections 306, 109, 309 of the Indian Penal Code (for short "I.P.C.") . It is the allegation that husband of respondent No. 2 was working in the company namely Kinetic Engineering Company Limited, Ahmednagar. She alleged that there were disputes between the workers and the management and also about the union. It is alleged that these petitioners were trying to bring pressure upon the husband of respondent No. 2 to join a particular union. The husband therefore, committed suicide by leaving behind a suicide note in which he has

stated that he is being harassed at the work place. His duties are frequently changed and the petitioners are asking him to accept the agreement that is taken place between the union and management. It is further stated that since last more than ten (10) years there was no hike in the salary. His wife that is present respondent No. 2 is suffering from ailments. It is lastly stated that because of harassment and because of the pressure he has committed suicide.

7. After the investigation was carried, the charge-sheet came to be filed for the offence punishable under Section 306 r/w Section 34 of the I.P.C.

8. The complaint was filed not only against these petitioners, but was filed against various other persons who were members of a local union from Bhartiya Kamgar Sena. The petitioners filed discharge application, however, the said application came to be dismissed by order dated 27.09.2019. Against the order dated 27.09.2019 passed by the learned Additional Sessions Judge, Ahmednagar in Sessions Case No. 154/2011 this writ petition is filed in which interim relief was already granted and the petition is pending since the year 2019.

9. As stated earlier, now there is a compromise between the parties. To that, offence under Section 306 is not compoundable and therefore,

the complaint cannot be disposed of under Section 320 of the Code of Criminal Procedure. Now, from compromise pursis it is seen that the respondent No. 2 is already compensated by making payment of Rs. 10,53,550/- (Rs. Ten Lakh Fifty Three Thousand Five Hundred Fifty only). In addition to that amount now an amount of Rs. 8,50,000/- (Rs. Eight Lakh Fifty Thousand only) is also paid to her vide D.D. No. 004155 of the HDFC Bank in favour of respondent No. 2. The said D.D. is handed over to learned advocate appearing for respondent No. 2 in the Court. This Court has also gone through the contents of the FIR. In view of the judgment of the Hon'ble Apex Court in a case of Madan Mohan Singh Vs. State of Gujarat and another reported in (2010) 8 Supreme Court Cases 628, it is clear that abetment involves a mental state and intention merely because in the offence there is some pressure and the duties are changed can in no way be said to be an abetment to commit a suicide. Thus, on merits also this Court finds that no case is made out to proceed against the petitioners for the offence punishable under Section 306 of the I.P.C. This Court comes to a conclusion that continue with the proceeding of the criminal case would be an abuse of process of law and therefore, it is necessary to prevent an abuse of process of law by allowing the petition. Hence, the following order.

ORDER

(I) Rules made absolute in terms of prayer clause (B).

10. Learned A.P.P. prays for some cost. However, looking to the nature, this Court feels that no cost is required as it appears to be genuine complaint from the angle of respondent No. 2.

(KISHORE C. SANT, J.)

PS.B.