

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

CRIMINAL APPLICATION (APL) NO.153 OF 2021.

{Ku. Disha D/o Manoj Boob ..Vrs.. State of Maharashtra and Anr.}

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri H. M. Mohta, Advocate for the Applicant.
Shri S. M. Ukey, APP for the Non-Appllicant No.1/State.
Shri A. S. Moon, Adv. h/f Shri S. U. Bhuyar, Advocate for the Non-Appllicant
No.2.

CORAM : MANISH PITALE AND
VALMIKI SA MENEZES, J.J.

DATE : 23rd AUGUST, 2022.

1. Heard finally with consent of the learned counsel appearing for the rival parties.
2. By this application, the applicant is seeking quashing of First Information Report (FIR) No.486 of 2020 dated 04.12.2020, registered at Police Station Shegaon, District Buldhana for offence under Section 306 read with Section 34 of the Indian Penal Code (IPC), insofar as she is concerned.
3. As per report lodged by the non-appllicant no.2 – Mahendra Dhamande, who is the father of the deceased Samruddhi, the applicant and co-accused were responsible for driving his daughter into committing suicide on

03.12.2020. On the basis of the oral report lodged by the non-applicant no.2, the aforesaid FIR came to be registered.

4. While issuing notice on 29.01.2021, this Court directed that the investigation may go on and the charge-sheet may also be prepared, however, it shall not be filed without seeking leave of this Court.

5. Shri H. M. Mohta, learned counsel appearing for the applicant submits that even if the contents of the oral report leading to registration of the FIR are taken to be as it is, it cannot be said that even a *prima facie* case is made out against the applicant for offence under Section 306 of the IPC. It was submitted that even in the reply filed on behalf of the non-applicant no.1/State, emphasis is placed upon WhatsApp chat messages between the applicant and the deceased. By referring to WhatsApp chat messages, copies of which have been filed alongwith the present application, it was submitted that the role of the applicant could not be said to be such that she instigated the deceased into taking the extreme step. It was submitted that the ingredients of abetment as defined under Section 107 of the IPC, are not

at all made out, and therefore, the present application deserves to be allowed.

6. Shri S. M. Ukey, learned Assistant Public Prosecutor appearing on behalf of the non-applicant no.1/State, placed before us copy of the suicide note, which was recovered during the course of the investigation. We have perused the same.

7. Shri A. S. Moon h/f Shri S. U. Bhuyar, learned counsel appearing on behalf of the non-applicant no.2 submitted that considering the material on record and the nature of the oral report submitted by the non-applicant no.2, the matter deserved investigation and the applicant ought to face trial.

8. In the present case, the applicant alongwith the co-accused is alleged to have committed offence under Section 306 of the IPC, which pertains to abetment of suicide. In this context, Section 107 of the IPC, is relevant which refers to abatement of a thing. In the context of the nature of allegations made in the present case, it appears that according to the non-applicant no.2, the applicant

indulged in such actions that amounted to instigation to the deceased to take the extreme step. In this backdrop, the allegations made in the oral report need to be appreciated, by further taking into consideration the material that has come on record at this stage during the course of investigation.

9. The nature of allegations made in the oral report against the applicant appear to be that she had developed relationship with the co-accused, who was allegedly initially in a long standing relationship with the deceased. The allegations appear to be to the effect that by her actions of intimacy with the co-accused, the applicant had driven the deceased to commit suicide. In this context, the contents of the suicide note become relevant. Although, the suicide note is yet to be sent to the handwriting expert and report is yet to be called, we are proceeding on the basis that for examining the contentions raised on behalf of the applicant, the contents of the suicide note are to be accepted as it is.

10. We have perused the suicide note and we find that the name of the applicant finds mention only at two places. At one place, it is indeed stated in the suicide note that the co-accused and the applicant have harassed and destroyed the deceased, but that appears to be only a general statement. The contents of the suicide note indicate the anger of the deceased as against the co-accused person and the harassment that she allegedly suffered due to his act of breaking the relationship with the deceased and establishing relationship with the applicant herein. We are of the opinion that even if the contents of the suicide note are to be accepted as it is, in the context of the applicant herein, not even a *prima facie* case is made out, demonstrating instigation on the part of the applicant for the deceased to have committed suicide.

11. A perusal of the copies of the WhatsApp chat messages placed before us show that the deceased indeed claimed that she was going ahead to commit suicide. At this stage, it appears that the applicant suggested to her that she ought to consider what effect the same would have on her

family and messages to that effect are found in the WhatsApp chat conversations/exchange of messages between the applicant and the deceased. Here again, even if the contents of the entire set of messages are to be accepted as it is, we feel that the material falls short of indicating ingredients of abetment by instigating under Section 107 of the IPC, and that there is lack of material to indicate any act on the part of applicant proximate to the deceased committing suicide.

12. Therefore, we find that the material on record accepted as it is, does not indicate even a *prima facie* case against the applicant for offence under Section 306 of the IPC. Hence, we are inclined to allow the present application.

13. In view of the above, the criminal application is **allowed** in terms of prayer clause (A), which reads as follows:

“(A) Application may kindly be allowed and the First Information Report registered at Crime No.486/2020, under Sec.306 R/w 34 of I.P.C. registered with P.S. Shegaon City, Tq. Shegaon, Dist. Buldhana, may kindly be quashed, in the

interest of justice.”

14. As stated hereinabove, this application is allowed and the subject FIR is quashed only insofar as the applicant is concerned.

(VALMIKI SA MENEZES, J.) (MANISH PITALE, J.)

TAMBE