

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

CRIMINAL APPLICATION (APL) NO. 445 OF 2020

APPLICANTS :

1. Sanket Waman Dhanorkar,
Aged 21 years, Occ : Student,
2. Saurabh @ Manya Loneshwar
Urkande, Aged about 24 years,
Occ : Student, R/o Yewati, Tq. Warora
District : Chandrapur.

// VERSUS //

RESPONDENTS :

- 1) State of Maharashtra,
Through Police Station Officer,
Police Station Warora,
Tq. Warora, District : Chandrapur.
- 2) Vandana Sainath Tonge,
Aged about 44 years, Occ:Housewife
R/o Yewati, Tq. Warora,
District : Chandrapur.

Shri S. V. Sirpurkar, Advocate for applicants.

Shri S. S. Doifode, Additional Public Prosecutor for respondent
No.1.

Shri M. P. Kariya, Advocate for respondent No.2.

CORAM:- SUNIL B. SHUKRE AND
G. A. SANAP, JJ.
DATED :- 06/06/2022.

JUDGMENT : (PER G. A. SANAP, J.)

1. The applicants in this application made under Section 482 of the Code of Criminal Procedure Code have prayed that the First Information Report vide Crime No.470/2020 dated 24/06/2020 registered with Warora Police Station for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860 be quashed.

2. The Informant - Vandana Tonge is the wife of deceased. On 24/06/2020, Vandana Tonge lodged a report with Warora Police Station alleging that her husband committed suicide due to the insulting treatment given to him by the applicants. The respondent No.2 - Vandana Tonge has stated in the report that she came to know from Dr. Vinod Nikure that the deceased before committing suicide had a talk

with him. Dr. Vinod Nikure informed the respondent No.2 that the deceased told him that the accused persons stopped him on the road and the accused No.1 gave a can of liquor in his hand and told him to admit before the villagers that the liquor in the can belonged to him. It is stated that in this manner, the deceased was humiliated by the accused. The deceased was the Chairman of Tantamukti Committee. He was respected by the villagers. The humiliation meted out to him was unbearable by the deceased and therefore, he committed suicide. It is stated that the accused Nos.1 and 2 abetted the commission of suicide by the deceased.

3. It is the case of the accused Nos.1 and 2 that they have not committed offence of abetment of suicide by the deceased. They have been falsely implicated in the case. The reason for suicide by the deceased was different. According to them, the First Information Report and the evidence collected by the Investigating Officer indicate that no offence has been made out.

4. The Investigating Officer has filed his reply and opposed the application. The Investigating Officer has reiterated the facts stated in the First Informant Report. It is contended that during the course of investigation, sufficient evidence has been collected to establish the complicity of the accused Nos.1 and 2 in the commission of a crime. The accused Nos.1 and 2 abetted the commission of suicide by the deceased.

5. The respondent No.2 - Vandana Tonge, the informant in this case has filed her reply. She has also reiterated the facts in her report. It is contended that the accused Nos.1 and 2 forced the deceased to carry the liquor can and admit before the villagers that the liquor in the can belonged to him. He was humiliated by the accused Nos.1 and 2. Therefore, he committed the suicide.

6. We have heard Shri S. V. Sirpurkar, learned Advocate for the applicants, Shri S. S. Doifode, learned Additional Public Prosecutor for respondent No.1 and Shri

M.P. Kariya, learned Advocate for respondent No.2. We have gone through the record and proceedings.

7. The deceased was the Chairman of the Tantamukti Committee. The accused Nos.1 and 2 are the students. The crime in this case was registered on the basis of report of respondent No.2, wife of the deceased. The deceased committed suicide on 06/04/2020. The report was lodged on 24/06/2020. It is stated in the report that the informant was busy in conducting the post death & other rituals of the deceased. She came to know from Dr. Vinod Nikure about the incident occurred prior to the commission of suicide by the deceased. The allegations made in the report against the accused Nos.1 and 2 if taken at its face value would indicate that the same would not attract the basic ingredients of the abetment as defined under Section 107 of the Indian Penal Code. The facts stated in the report do not indicate that there was instigation or intentional aiding by the accused to the deceased to commit suicide. It is the case of the prosecution

that the accused Nos.1 and 2 handed over the can of liquor to the deceased and told him to admit before the villagers that same belonged to him. In our opinion, this statement of fact if considered in juxtaposition with Section 107 of the Indian Penal Code would clearly indicate that the ingredients of the abetment do not get attracted.

8. The Hon'ble Supreme Court of India in the case of *Neeharika Infrastructure Pvt. Ltd. Vrs. State of Maharashtra and others*¹ formulated the conditions to be borne in mind while deciding the application under Section 482 of the Code of Criminal Procedure for quashing the criminal prosecution. In our view, Condition Nos.3 and 10 would get attracted in this case. The plain reading of the First Information Report and the evidence does not disclose the element of abetment in any manner by the accused to the commission of suicide by the deceased. The basic ingredients of Section 107 of the Indian Penal Code have not been made out in the fact situation. Therefore, non-interference by us would result in miscarriage

of justice. The allegation made as can be seen from the First Information Report is of general nature. In the facts and circumstances of the case, in our view, this is a fit case to exercise the power under Section 482 of the Code of Criminal Procedure. The criminal prosecution, therefore, deserves to be quashed. Hence, the following order :-

ORDER

- i] The application is allowed.
- ii] The First Information Report registered vide Crime No.470/2020 at Police Station, Warora, Dist. Chandrapur for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code against the accused Nos.1 and 2 / applicants is quashed and set aside.
- iii] All consequential acts taken by the Investigating Officer also stand quashed and set aside.
- iv] All pending applications are disposed of.

[G. A. SANAP, J.]

[SUNIL B. SHUKRE, J.]

Choulwar