

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

CRIMINAL APPLICATION (APL) NO.894 OF 2021

{Manisha D/o. Motiram Laghe ..Vrs.. The 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 S. M. Awachar, Advocate for the Applicant.

Shri A. S. Fulzele, Addl. P. P. for the Respondent no.1/State.

Ms R. N. Gaikwad, Adv. h/f Shri S. D. Chande, Advocate for the Respondent no.2.

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

DATE : 11th AUGUST, 2022.

. Heard finally with consent of the learned counsel appearing for the parties.

2. By this application, the applicant has approached this Court seeking quashing of FIR No.389 of 2021, dated 01.08.2021, registered at Police Station Amadapur, District Buldhana, whereby an offence under Section 306 of the Indian Penal Code has been registered against her.

3. The respondent no.2 is the original informant/complainant, being the wife of the deceased. As per the oral report submitted by the respondent no.2, her husband was driven to commit suicide due to the constant

harassment meted out by the applicant. It was stated that the applicant and the deceased were working in the same office, which was, *inter alia*, concerned with implementation of a Government scheme called “Mahatma Gandhi Rashtriya Gramin Rojgar Hami Yojna”. It was stated in the report that the applicant was allegedly repeatedly harassing the deceased in the office in respect of work concerning the said scheme, particularly submission of muster roll of labour. It was stated that on 22.07.2021, the applicant had called the deceased on his mobile and that the conversation was recorded, which demonstrated that the applicant had insisted upon the deceased signing the muster roll, failing which, she would report him to the authorities. It was claimed that the applicant used to humiliate the deceased, driving him to commit suicide.

4. This Court issued notice in the present application and directed that although the investigation may go on but, charge-sheet shall not be filed against the applicant without leave of this Court.

5. Upon service of notice, respondent no.2 appeared through counsel and respondent no.1/State is represented through the learned Additional Public Prosecutor.

6. Shri Awachar, learned counsel for the applicant submitted that even if the contents of the oral report leading to registration of FIR were to be taken as it is, no ingredients of the offence under Section 306 of the IPC were made out and that the definition of abetment as given in Section 107 of the IPC was not satisfied. It was submitted that the conversation dated 22.07.2021, was five days prior to 27.07.2021, when the victim committed suicide. It was submitted that the muster roll, as per the existing procedure, was to be submitted only under the signature of the deceased and that the applicant working as a data entry operator insisting upon the deceased to sign the muster roll, could not be taken as instigation for the victim to take the extreme step. It was submitted that there was no incident proximate in point of time involving the applicant, to make out the ingredients of the offence under Section 306 of the IPC. It was submitted that as per settled

law in such cases, the matter ought not to go to trial, when the basic ingredients of the offence under Section 306 of the IPC read with Section 107 thereof, were not made out. Reliance was placed on judgment of the Hon'ble Supreme Court in the case of *Sanju @ Sanjay Singh Sengar ..Vrs.. State of M. P. (judgment and order dated 01.05.2002 passed in Criminal Appeal No.572 of 2002)*.

7. Shri Fulzele, learned Additional Public Prosecutor appeared on behalf of the respondent no.1/State and referred to the case diary pertaining to investigation in pursuance to the aforesaid FIR.

8. Ms Gaikwad, learned counsel holding for Shri S. D. Chande, learned counsel appeared for respondent no.2 and submitted that there was sufficient material on record to indicate that the matter ought to go to trial, particularly in the light of statement given by the respondent no.2 about the manner in which, the applicant had humiliated and harassed the deceased in connection with office work. Much emphasis was placed on recording of conversation

dated 22.07.2021, wherein the applicant allegedly threatened the victim.

9. We have heard the learned counsel for the rival parties and perused the material on record. Learned Addl. P. P. also brought to our notice the material in the case diary pursuant to investigation in the present case.

10. We have perused the oral report leading to registration of the FIR. There is specific reference made to the alleged manner in which, the applicant used to humiliate the deceased on the aspect of expeditious submission of muster roll. Attention of this Court is invited to the recorded conversation dated 22.07.2021, wherein the applicant allegedly threatened the deceased. Details were also given as to the manner in which, the applicant was uneasy before he eventually took the extreme step on 27.07.2021.

11. In such cases involving allegations pertaining to offence under Section 306 of the IPC, the Courts have placed emphasisum Section 107 of the IPC, pertaining to

abetment. Various aspects of the definition of abetment have been taken into consideration in such cases, particularly the aspect of instigation. While considering the aspect as to whether even *prima facie* case is made out under Section 306 of the IPC, it is held that instigation would necessarily involve an occurrence proximate in point of time to the actual extreme step taken by the victim in such cases. General allegations of harassment or even abusive language used during the course of dispute between the parties, has been found to be insufficient to send the matter to trial.

12. The learned counsel appearing for the applicant is justified in relying upon the judgment of the Hon'ble Supreme Court in the case of **Sanju @ Sanjay Singh Sengar .Vrs.. State of M. P.** (supra). In the said case, the Hon'ble Supreme Court referred to earlier judgments in the context of Sections 306 and 107 of the IPC. Reference was made to the observations made in earlier judgments, where it was held that the Court will have to examine even at *prima facie* stage, whether the victim committing suicide

could be said to be hypersensitive to ordinary petulance, discord and differences and such discord and differences were not expected to induce an individual to commit suicide. It was held that even at *prima facie* stage, the Court could sift the material to reach a conclusion that the accused by his or her actions had left no alternative for the victim, but to commit suicide. In the context of the expression “instigate”, it is held that it denotes incitement or urging to do some drastic or unadvisable action or to stimulate or to incite. In the said case, on facts, it was found that the abusive language used by the accused in the context of the victim even two days prior to the actual incident was not found to be proximate in point of time.

13. Applying the aforesaid standards to the admitted facts of the present case, we find that the recorded conversation in which, the applicant allegedly threatened the victim was five days prior to the actual incident. Even in the recorded conversation, as stated by the respondent no.2, all that the applicant stated was that if the victim failed to sign the muster roll, the applicant would be

constrained to report the matter to the office. We are of the opinion that in the course of discharge of official duties, if there is certain interaction between employees and where there is difference of opinion about the manner in which, a particular duty is to be performed, that in itself cannot be said to be enough to incite or instigate a person to take such an extreme step. Even otherwise, as noted above, the said conversation was five days prior to the actual date of the incident.

14. Insofar as allegation of general harassment in office work is concerned, we are of the opinion that the same cannot show *prima facie* case because in some circumstances, the Hon'ble Supreme Court has found that words uttered during the course of quarrel even to the extent of the accused making a remark that the deceased could go and die, was not enough to show ingredients of the offence under Section 306 of the IPC.

15. Therefore, we are of the opinion that even if the material that has come on record in the facts of the present

case is to be accepted as it is, even *prima facie* the ingredients of the offence under Section 306 of the IPC are not made out. Therefore, the present application deserves to be allowed.

16. Accordingly, the criminal application is **allowed** in terms of prayer clause (B), which reads as follows :

“(B) To quash and set aside the FIR bearing No.389/2021, dated 01.08.2021, registered with the Amadapur Police Station, Tq. Chikhali, Dist. Buldana alleging commission of the offence punishable under Section 306 of IPC by exercising benign command as vested in this Hon’ble Court under Section 482 of the Code of Criminal Procedure.”

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

TAMBE