

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

CRIMINAL APPLICATION NO.1094 OF 2021

APPLICANT:- Hitesh Shriram Agrawal, aged about 40 years, Occu.Business, R/o Ward No.28, Balaghat, Tah.and dist. Balaghat

...VERSUS...

RESPONDENTS :-

1. State of Maharashtra, through Police Station Officer, Police Station Gondia Rural, Tah.and Dist.Gondia.
2. Kapil Pravinkumar Agrawal, Bamleshwari Colony, Fulchar, Gondia, Tah. And Dist.Gondia.

AND

CRIMINAL APPLICATION NO.1097 OF 2021

APPLICANT:- Anurag Chandrashekhar Chaturmotha, aged 43 years, Occu.Business, R/o.Ward No.18, Balaghat, Tah.and Dist. Balaghat

...VERSUS...

RESPONDENTS :-

1. State of Maharashtra, through Police Station Officer, Police Station Gondia Rural, Tah.and Dist.Gondia.
2. Kapil Pravinkumar Agrawal, Bamleshwari Colony, Fulchur, Gondia, Tah. And dist.Gondia.

Mr.A.C.Jaltare, counsel for the applicants in both the matters.
Mr. I.J.Damle, APP for respondent No.1 in both the matters.
Mr.VK.Nankani, counsel for respondent No.2 in both the matters.

**CORAM : SUNIL B.SHUKRE &
G.A.SANAP, JJ.**

DATE : 22.06.2022.

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally
by consent of the learned counsel appearing for the parties.

3. According to the learned counsel for the applicants,
no offence whatsoever, under Section 306 read with Section 511
of the Indian Penal Code is made out against these two applicants,
as there can be no attempt to abet the commission of suicide. He
submits that basically suicide has not been admittedly committed
and therefore, any further question relating to abetment and
attempt to abet the commission of suicide would not arise.

4. According to the learned APP, even when there is no suicide committed, still it can be said in the present case that the abetment of suicide is attempted by the accused. In fact, same is the argument of learned counsel appearing for the complainant, who submits that the allegations are very serious and these applicants have cheated the complainant and induced him to invest huge amount by borrowing some portion from these applicants in some fraudulent company, only to lose his entire money.

5. The allegations as pointed out by the learned APP and the learned counsel appearing for the complainant are indeed there, but the question is even when these allegations are accepted as they are, any such offence as attempt to abet the commission of suicide is made out or not, and we must say that there is no such offence made out in the given set of facts. Whenever an attempt to commit suicide is made, the offence would be registered against a person, who makes an attempt to commit the suicide, under Section 309 of the Indian Penal Code and not against the person, who has allegedly harassed the person

making such an attempt. The offence of abetment of suicide under Section 306 of the Indian Penal Code would come into picture, only when there is a commission of suicide. All this is clear from the plain language of two sections viz. Section 309 of the Indian Penal Code and Section 306 of the Indian Penal Code, which are, for the sake of convenience, reproduced as under:-

306. Abetment of suicide.— *If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

309. Attempt to commit suicide.— *Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year [or with fine, or with both].*

6. It would be clear from the above refereed sections that Section 306 offence of abetment of suicide is constituted only when a person commits suicide and there is an abetment of commission of the suicide and whereas, Section 309 offence of an attempt to commit suicide is made out whenever a person attempts to commit suicide and does some act towards the

commission of such offence. Such is not the case here. The registration of the offence punishable under Section 306 read with Section 511 of the Indian Penal Code against both the applicants is, therefore, misconceived, rather illegal and no investigation into such an offence can be permitted any further. As regards the other offences, let the investigation go on, if they are cognizable.

7. In the result, these applications are partly allowed and the First Information Report registered against these applicants for an offence punishable under Section 306 read with Sections 511 and 34 of the Indian Penal Code is hereby quashed and set aside. The Investigating Officer would be at liberty to make investigation in other offences, if they are cognizable.

8. Pending applications, if any, are disposed of accordingly.

9. Rule is made absolute in the above terms. No costs.

(G.A.SANAP, J)

(SUNIL B. SHUKRE, J)