

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

**CRIMINAL APPLICATION (APL) 925 OF 2019**

1. Dr. Ajay s/o. Govindrao Kurwade,  
aged about 37 yrs, occ. Chief Officer,  
Municipal Council, Karanja (Lad),  
Tahsil Karanja, District Washim.
2. Dhananjay s/o.Digambar Dakhode,  
aged 56 yrs, Occ. Government Service as  
Administrative Officer,  
Municipal Council, Karanja (Lad),  
Tahsil Karanja, District Washim

**.....APPLICANTS**

**...V E R S U S...**

1. State of Maharashtra,  
through Police Station, Karanja (Lad),  
District Washim
2. Diksha Pawan Raut,  
Aged about 24 yrs,  
r/o. Indira Nagar, in front of  
New Bus Sand, Karanja,  
District Washim,

**...NON-APPLICANTS**

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Mr. Abhay Sambre, counsel for applicants.  
Mr. T.A. Mirza, APP for non-applicant 1/State.  
Mr. P.S. Wathore, counsel for non-applicant 2.  
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**CORAM:- ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.**  
**DATED :- 10.11.2022**

**ORAL JUDGMENT** (Per: Rohit B. Deo, J.)

Applicant 1 Dr. Ajay Govindrao Kurwade and

applicant 2 Mr. Dhananjay Digambar Dakhode were at the relevant time posted as Chief Officer and Administrative Officer, respectively of the Municipal Council, Karanja.

2. One Mr. Pavan Raut unfortunately committed suicide on 4.8.2019 by jumping in the well.

3. Mr. Pavan's widow lodged report dated 7.8.2019 alleging that the applicants have abetted the suicide. On the basis of report, Karanja (Lad) Police Station registered offence punishable under Section 306 read with section 34 of the Indian Penal Code (IPC), sections 3,1(r)(s), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the applicants.

4. The substratum of the report is that the father of the deceased Mr. Vijay Raut was working as peon with the Municipal Council, Karanja. On 16.08.2019, he died in harness. Mr. Pavan had applied for compassionate appointment. His documents were scrutinized in September 2018 alongwith the documents of one Mr. Rahul Shiwaji

Savant. In January 2019, Mr. Rahul Shiwaji Savant was appointed. Mr. Pavan started enquiring with the applicants as regards the fate of his application, only to receive evasive and humiliating answers and response. It is alleged that such treatment caused Pavan to be under tremendous emotional pressure. Mr. Pavan used to proclaim that he would not mind not getting the job, however, he is perturbed by the treatment meted out. According to the informant, the applicants also demanded bribe of Rs. 1,00,000/- to 1,50,000/- and when Mr. Pavan expressed inability to pay the bribe, he was further humiliated.

5. The learned counsel for the applicants Mr. Abhay Sambre invites our attention to the fact that the roaster approved by the Assistant Commissioner, Amravati Region, Amravati for filling the post of Clerk-cum-Typist on 14.11.2018 allots one post each to Scheduled Caste, Scheduled Tribe and Nomadic Tribe. The name of Mr. Rahul Shiwaji Savant was at serial 1 from the category of Scheduled Caste and the name of Mr. Pavan Raut was at serial 2. The

other person selected Mr. Amit Thokade was from the Other Backward Category. Since there was no vacancy as such for issuing an appointment order to Mr. Pavan Raut, the local MLA, who intervened on behalf of Mr. Pavan Raut, as well as Commissioner, were informed way back on 13.3.2018 and 19.7.2019 that in the absence of vacancy, at that stage, the claim of Mr. Pavan Raut could not be considered.

6. The learned counsel Mr. P.S. Wathore, who appears for the complainant reminds us of the limitation of the jurisdiction under section 482 of the Code of Criminal Procedure by submitting that the material on record cannot be appreciated at the stage of deciding quashing petition. We are alive to the position of law. We are therefore, restricting our consideration broadly to the allegations in the First Information Report.

7. The allegation in the report that Mr. Pavan was not appointed since he was not in a position to pay illegal gratification does not appear to be prima facie tenable. That apart, even if one assume that Mr. Pavan was wrongfully

denied the benefit of the Compassionate Appointment Scheme, and that extraneous consideration did play a role, considering the report in entirety, we are not in a position to even prima facie hold that the ingredients of Section 306 of IPC are made out.

8. The *sine qua non* ingredient of section 306 IPC is abetment, which is defined in Section 107, which reads thus:

***107. Abetment of a thing*** — *A person abets the doing of a thing, who—*

*First — Instigates any person to do that thing; or*

*Secondly — Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or*

*Thirdly — Intentionally aids, by any act or illegal omission, the doing of that thing.*

*Explanation 1 — A person who by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.*

*Illustration*

*A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z.*

*B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.*

*Explanation 2 — Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.*

A person abets the doing of a thing, who instigates any person to do that thing is clause first. Clauses secondly and thirdly are clearly not attracted. The issue which arises is whether the applicants have, even if the allegations in report are accepted at face value, instigated Mr. Pavan Raut to commit suicide.

9. It is not even argued that applicants intended that Mr. Pavan should commit suicide. The only other way in which the applicants can be included in the dragnet is if there is material to show that the conduct was such, as would drive a person of normal sensitivity to take the extreme step, in which case knowledge will have to be attributed to the applicants. We do not find any material on record, even if we accept the allegations in the report, to suggest that the

conduct was such, in extent and magnitude as would drive a person of normal disposition to commit suicide. Suffice it to note the articulation of the Hon'ble Supreme Court in *Sanju alias Sanjay Singh Sengar..vs..State of M.P., (2002)5 SCC 371*.

10. We therefore, hold that compelling the applicants to face the agony and trauma of trial shall be an abuse of the process of law since a trial shall be an empty and ritualistic formality. We therefore, allow the application in terms of prayer clause (i), which reads thus:

(i) Quash and set aside the F.I.R. dated 7.8.2019 having crime No. 334/2019 registered by Police Station, Karanja, District Washim for the offences punishable under section 306 read with section 34 of I.P.C. and Section 3, 1(r)(s) and 3(2)(v) of S.C., S.T. Prevention of Atrocity Act annexed at Annexure No.1.

(Urmila Joshi-Phalke, J.)

(Rohit B. Deo, J.)