

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

1016 CRIMINAL APPLICATION NO.953 OF 2023

Seema D/o. Duryodhan Wankhede .. Applicant

Versus

1. The State of Maharashtra
2. Ghanshyam Babasaheb Sonawane .. Respondents

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Advocate for Applicant : Mr. Amol Ratan Gaikwad
APP for Respondent / State : Mr. P. N. Kutti
Advocate for Respondent No.2 : Mr. P. M. Nagargoje

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**CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

DATE : OCTOBER 26, 2023

PER COURT :

. Heard.

2. This is an application for quashing of the criminal proceeding bearing S.C.C. No.1092 of 2021 pending on the file of Chief Judicial Magistrate, Aurangabad for the offence under Section 309 of the Indian Penal Code pursuant to charge-sheet bearing No.157/2020 and FIR bearing Crime No.73 of 2020 registered with Pundlik Nagar Police Station, Tal. & Dist. Aurangabad.

3. We deem it appropriate to reproduce Section 309 of the Indian Penal Code, which reads as follows:

“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 ¹[or with fine, or with both]”

4. It would also be relevant to reproduce Section 115 of the Mental Healthcare Act, 2017, which reads as under:

“115. Presumption of severe stress in case of attempt to commit suicide.- (1) Notwithstanding anything contained in section 309 of the Indian Penal Code (45 of 1860) any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code. (2) The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.”

5. There is nothing on record to rebut the presumption under Section 115 of the Mental Healthcare Act and therefore the application is allowed in terms of prayer clause ‘B’.

[NEERAJ P. DHOTE, J.]

[R.G.AVACHAT, J.]