

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

**CRIMINAL APPLICATION NO. 1627 OF 2020**

1. Kadubai Babanrao Banaitkar
2. Soniya w/o Nishant Patil @  
Soniya d/o Arunrao Takte

..APPLICANTS

VERSUS

1. State of Maharashtra
2. Eknath Prahladrao Motinge

..RESPONDENTS

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Mr. R.B. Ade, Advocate for applicants  
Mr. N.T. Bhagat, A.P.P. for respondent no.1 – State  
Mr. Shriniwas Wagh, Advocate for respondent no.2

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**CORAM : R.G. AVACHAT AND  
SANJAY A. DESHMUKH, JJ  
DATE : 27<sup>th</sup> JUNE, 2023**

**PER COURT :**

1. This application under Section 482 of Code of Criminal Procedure is filed for quashment of First Information Report ('F.I.R.'), being Crime No. 368 of 2020 registered with Mukundwadi Police Station, Dist. Aurangabad for the offences punishable under Sections 498-A, 304-B and 306 read with Section 34 of the Indian Penal Code and consequential charge-sheet filed in R.C.C. No. 12 of 2021 pending on the file of Judicial Magistrate First Class, Aurangabad.

2. In short, case of the prosecution as is disclosed from the F.I.R. and police papers is :-

Deceased – Shivnanda married co-accused – Girish on 01<sup>st</sup> May, 2018. Both, the deceased and Girish were deaf and dumb. Girish was employed in Pune. On marriage, the deceased started residing at her matrimonial home at Kingaon, Tq. Phulambri, Dist. Aurangabad. The F.I.R. has been lodged by father of the deceased. It has been alleged therein that the co-accused viz. Girish (husband), parents-in-law, sister-in-law – Soniya (Applicant No.2) and their acquaintance – Kadubai (Applicant No.1) would harass and ill-treat her on one or the other reason. Girish left his job and came back to his parental home. He used to spend all time on Whatsapp. Girish and even in-laws did not speak with the informant for long. They would ask her to give Girish divorce. On *Rakhipornima*, the deceased had been to her parental home, at Aurangabad. Her mother took her into confidence. She, therefore, related her woes. Ultimately the deceased committed suicide by hanging on 25<sup>th</sup> August, 2020.

3. It is also the case of prosecution that the deceased left behind three suicide notes, wherein she has alleged the present applicants, her husband and parents-in-law to have harassed and ill-treated her all along. As such, it is the case of prosecution that the applicants and co-accused dealt

with the deceased such a way as the deceased was not left with any option but to end her life. According to the prosecution, the applicants and the co-accused abetted suicide by the deceased. On investigation, charge-sheet has been filed. Statements of relations of the deceased have been recorded. They were consistent with the averments in the F.I.R.

4. Learned counsel for the applicants would submit that Applicant No.1 was not a family member of the in-laws of the deceased nor she was employed as female servant. He relies on the appointment order indicating her to have been in government service as peon. According to him, although she was residing in very village. She has no occasion to visit the matrimonial home of the deceased. He would further submit that Applicant No.2 – sister-in-law of the deceased had married 10-12 years before the deceased was married. Her matrimonial home was at Aurangabad. The F.I.R. and even the suicide notes are silent to state as to when she would visit her parental home and ill-treated the deceased. According to him, directing the applicants to face prosecution based on such quality of material would be an abuse of process of Court. He, therefore, urged for grant of the application.

5. Learned A.P.P. and learned counsel for Respondent No.2 would, on the other hand, submit that the names of the applicants have been reflected in the F.I.R. and suicide notes. The deceased was deaf and dumb.

She has related in the suicide notes the manner in which the applicants had ill-treated her. The ill-treatment meted out to her by the applicants and co-accused was such that she was driven to commit suicide. Text messages sent by the deceased to her brother have also been relied on. According to them, on investigation, charge-sheet has been filed. No mini trial can be conducted here. They, therefore, urged for rejection of the application.

6. Considered the submissions advanced. Perused the F.I.R., suicide notes and even text messages. Names of the applicants do not figure in the text messages. Admittedly, the deceased committed suicide at her parental home, that too a month after she left her matrimonial home. There is nothing to indicate that soon before the deceased committed suicide, or even during a month next before she committed suicide, any of the applicants had been to her parental home and ill-treated her. Close reading of the F.I.R. and the suicide notes would indicate that grievance of the deceased was that both the applicants used to tease her. There are no details as to when the applicants had an occasion to tease her and in what way. As such, the allegations are general and vague in nature. Needless to mention for offence of abetment of suicide intention (*mens rea*) is an essential ingredient. By no stretch of imagination it could be observed that the applicants behaved with the deceased with an intention to drive her to commit suicide. In such circumstances, allowing the prosecution to proceed against the applicants

would be a sheer abuse of process of Court. We are, therefore, inclined to allow the application.

7. In view of above, criminal applications is allowed in terms of prayer clauses (B) and (B-1).

SSD ( SANJAY A. DESHMUKH, J. )

( R.G. AVACHAT, J. )