

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

CRIMINAL APPLICATION NO.2085 OF 2021

ANITA W/O. BHARAT VALVI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S.A. Kulkarni, Advocate for the Applicants.
Mr. P.G. Borade, APP, for the Respondent – State.
Mr. R.B. Temak, Advocate for Respondent No. 2.

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**CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ**

DATE : JANUARY 10, 2023

PER COURT :

1. This is an application under Section 482 of the Cr.P.C. for quashing FIR no. 225/2020 registered at Dhadgaon Police Station and consequent charge-sheet no. 87/2021 (Sessions Case No. 35/2021, pending on the file of District Judge-1, Additional Sessions Judge, Shahada) for offences punishable under Sections 306, 143, 147, 149, 504, 506 read with Section 34 of the Indian Penal Code.

2. Heard learned Counsel for the Applicants, learned Counsel for Respondent no.2 and learned APP for Respondent – State. We have perused the records and considered the submissions advanced by learned Counsel

appearing for respective parties.

3. The records reveal that the minor son of the complainant had committed suicide on 02.07.2020. It is stated that the deceased, who was studying in Fergusson College, Pune, had returned home because of the lockdown declared due to Covid-19 pandemic. The father of the deceased lodged the first information report on 12.09.2020 alleging that there is property dispute between his family and the applicants herein. It is alleged that in March/April, 2020, the brother of the complainant, took forcible possession of the land which was in possession of the complainant. When the complainant questioned his brother about the same, the applicant no. 4 rushed towards him with an axe. The complainant has alleged that the deceased had told him that his uncle had threatened to kill the complainant for having lodged a false case against them. The complainant advised the deceased to ignore such threats.

4. It is stated that on 15.06.2020, the brother of the complainant as well as applicant nos. 1, 2 and 5 raised a quarrel over partition of the property, in

view of which the complainant lodged a police report on 19.06.2020. In view of which, on 02.07.2020 the applicant no. 1 came to the house of the complainant under the influence of alcohol and abused him. He has stated that the deceased was scared due to the said incident. The complainant has alleged that on the same day, while the complainant and his wife were working in the paddy field, the deceased came to the field and informed that the applicant no. 1 had abused him. The deceased had also told the complainant that his uncle and the other applicants pelted stones at their house. The complainant once again told the deceased to ignore such incidents and concentrate on his studies. The deceased committed suicide on the same day. The complainant has alleged that his son has committed suicide because of the property dispute as well as because of the constant threats and abuses given by his brother and the applicant herein.

5. The crime has been investigated, the statements of witnesses have been recorded and charge-sheet has been filed against the applicants for the aforestated offences. We have perused the record.

6. The question for our consideration is, whether the allegations made in the FIR as well as the other material collected in the course of investigation discloses commission of any offence as alleged.

7. The applicants are alleged to have abetted suicide. The term 'abetment' is defined under Section 107 of the Indian Penal Code, 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.

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.

8. In the case of Arnab Manoranjan Goswami Vs. State of Maharashtra & Others reported in (2021) 2 SCC 427, the Apex Court upon considering the previous decisions, has observed that *"In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence"*.

It is further observed that *"If the person who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC"*.

9. In the instant case, the allegations made in

the FIR as well as the statements of the witnesses reveal that the relationship between both the parties are strained over property dispute and they have filed civil as well as criminal case against each other, which are pending adjudication. Though the complainant has made several accusations against the applicant and claimed that the deceased committed suicide due to the harassment, in the report dated 12.09.2020, lodged on the same day, the complainant did not refer to any such incidents as stated in the FIR and did not hold the applicant responsible for the death of his son. In fact, in the said statement recorded immediately after the incident the complainant had stated that he was not aware as to why his son had committed suicide and had stated that he does not suspect any person. It was only at a later stage i.e., in the FIR lodged two months after the incident, it was sought to be portrayed that the deceased had committed suicide due to the family dispute and quarrel. We are conscious of the fact that the delay in lodging the first information report is not *per se* fatal and certainly not a ground for quashing but in the instant case, the delay gains significance particularly in view of pending disputes

and strained relationship between the parties and raises a possibility of malicious prosecution. Even otherwise, mere abuses, threats or harassment will not *per se* constitute 'abetment' within the meaning of Section 107 IPC, unless such kind of harassment is intended to instigate the deceased to commit suicide. The FIR and the other material on record does not indicate disclose such ingredients. Hence, the accusations even if taken at face value do not reveal that the applicants herein had abetted, aided or instigated the deceased to commit suicide.

10. In the circumstances, in our considered view, the first information report as well as other material on record even if accepted in its entirety does not disclose offence under Section 306 IPC. Hence, continuance of the criminal proceedings against the applicants would be sheer abuse of the process of law. Hence, this is a fit case to exercise jurisdiction under Section 482 of the Cr.P.C. to prevent the abuse of the process of law. Under the circumstances, application is allowed in terms of prayer clause 'B'. Consequently, FIR no. 225/2020 registered at Dhadgaon

Police Station and consequent charge-sheet no. 87/2021 (Sessions Case No. 35/2021, pending on the file of District Judge-1, Additional Sessions Judge, Shahada) for offences punishable under Sections 306, 143, 147, 149, 504, 506 read with Section 34 of the Indian Penal Code, are hereby quashed and set aside.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)