

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1579 OF 2017

Bharat Madhukar Gosavi

..... Petitioner

Vs.

State of Maharashtra & Anr.

..... Respondents

Mr. Satyavrat Joshi for the Petitioner

Mr. K. V. Saste, APP for the State

**CORAM: NITIN W. SAMBRE &
R.N.LADDHA, J.**

DATED : JULY 18, 2023

P.C. (PER : NITIN W. SAMBRE,J.)

1. The Petitioner, a former employee of the Irrigation Department is seeking quashing of FIR in Cr.No.84 of 2017 registered on 8th March 2017 for the offences punishable under Section 306, 34 of the Indian Penal Code.

2. The case of the prosecution is that the complainant Shobha, on 8th March 2017 lodged a complaint that her son Guruprasad was granted compassionate appointment after death of her husband. According to her since the aforesaid appointment was granted to Guruprasad on compassionate ground, the accused persons used to curse him for securing easy employment. It is mentioned in the FIR

that the illtreatment meted out to the Guruprasad by the accused who were superior officers like Petitioner was of such a high degree which has forced him to pay water taxes to be collected from the water users, from his own pocket. Same act has resulted in Guruprasad having committed suicide. Guruprasad was made to commit suicide which is connected to the present Petitioner and other accused persons.

3. Drawing support from the judgment of the Supreme Court in the case of *Geo Varghese Vs. State of Rajasthan and Anr. AIR 2021 SC 4764*, the submissions are even if the suicide notes are considered against the Petitioner, still the offence of abetment under Sections 107 and 108 of the Indian Penal Code cannot be made out. In this backdrop, the offence under Sections 107 and 108 of the Indian Penal Code cannot be inferred against the Petitioner.

4. Further submissions are that the deceased Guruprasad was never transferred. It is claimed that the Petitioner, in fact, was not posted at a place where the Guruprasad was said to be working under him, as the Petitioner was in additional charge, where Guruprasad was working.

5. The learned APP opposing the prayers of the learned Counsel for the Petitioner, submits that even if what has been stated in the

suicide note is considered in the interest of the Petitioner, still the fact remains that the oral dying declaration as reflected in the complaint dated 8th March 2017 sufficiently establishes the case of the prosecution that of the accused having abetted the offence of suicide by Guruprasad. According to him the FSL report is still awaited. As such, he would urge that there is enough material on record to infer *prima facie* involvement of the Petitioner in the offence in question.

6. We have appreciated the rival submissions of the respective counsel. Mr. Joshi has drawn support from the judgment of the Apex Court in the matter of Geo Varghese (*supra*) and would urge that the very ingredients of Section 306 read with Section 107 and 108 of the Indian Penal Code cannot be inferred. So as to substantiate his claim that the Petitioner cannot be termed as an abettor of the offence, he has claimed that intention to commit the offence is absent. No doubt, the Apex Court, in paragraph 16 of the said judgment, has noted that in the case of accusation of abetment of suicide the Court must look for cogent evidence and convincing proof and the act of incitement to the commission of suicide. It is further observed in the said judgment that in case of suicide, mere allegation of harassment to the deceased by another person will not be sufficient unless there be such action on the part of the accused which compels the person to

commit suicide and such an act is within the proximate to the time of occurrence.

7. The fact remains that the deceased has written a note in which the name of the Petitioner is very much reflected to be the person who has caused illtreatment to deceased Gurupasad in the matter of discharge of his duty after having got secured appointment on compassionate ground. It has been specifically mentioned in the FIR that the deceased Guruprasad was forced to pay water taxes which were recoverable from the defaulter, from his own pocket and for satisfying such demand of the officers, Guruprasad was indebted to the financial institutions.

8. Apart from the above, the contents of the FIR lodged by the mother of Guruprasad in categorical terms state about the oral dying declaration made by Guruprasad to the complainant which has evidential value that can be looked into at the stage of trial.

9. At this stage, there appears to be sufficient evidence to connect the Petitioner with the offence of abetment of suicide by the deceased Guruprasad. The available material on record takes us to the satisfaction of the inference that the offence punishable under Section 306 read with section 107 and 108 of the Indian Penal Code can be inferred against the Petitioner. That being so, the reliance on

the judgment of the Apex Court in the matter of Geo Varghese (supra) will be of hardly any assistance to the Petitioner.

10. In this backdrop, no case for interference is made out in the Writ Petition. The Writ Petition fails and is dismissed.

11. Needless to clarify that the Trial Court shall not be influenced by the findings recorded herein, as the same are only with respect to the prayers made in the present Writ Petition.

(R.N.LADDHA,J)

(NITIN W. SAMBRE,J)