

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.410 OF 2022**

Rohini Sudarshan Gangurde .. Applicant
Versus
The State of Maharashtra & Anr .. Respondents
...

Mr. Paras Yadav, for the applicant.
Mr. S.R. Agarkar, APP for the State.
Mr. B.G. Bansode a/w Ms. Tanvi Phatak i/b Mr. Sachin Hande for
respondent no.2.

**CORAM: BHARATI DANGRE, J.
DATED : 5th SEPTEMBER, 2023**

P.C:-

1 The applicant, wife of one Sudarshan Gangurde, who hanged himself to death on 17/02/2020, in his house, seek her discharge, from the charge and the accusations faced by her under Section 306 of IPC.

 The subject CR came to be registered on a complaint being filed by the mother of the deceased, narrating that the marriage of the deceased was solemnized with the applicant in the year 2015 and they started residing in Kolhapur, but was on visiting terms with his parents residing in Mumbai. Her son had specifically complained to her about the atrocious behaviour of his wife, as she was abusive, and at times created squabble in the house.

 She referred to the specific incident, when the parents had visited their house in the month of May, 2019.

 The complainant has specifically referred to the

behaviour of the applicant, which at times, resulted into quarrel and she had also forwarded messages to the deceased and according to the informant they were highly abusive and disparaging.

Apart from the members of the family, whose statement were recorded as a part of investigation, statement of one Ujwala Sawant, the colleague of the deceased is also recorded, who had made reference to an incident dated 17/10/2019, when the deceased being on duty was visited by the applicant and she created a ruckus in the office by rushing towards him on being abusive. The version is corroborated by another employee, Mr. Bajirao Apte.

2 The counsel for the applicant has relied upon the decision of the Apex Court in case of *Shabbir Husain Vs State of Madhya Pradesh & Ors (2021) 0 Supreme (SC)*, 993, and the decision in case of *Madan Mohan Singh Vs. State of Gujarat & Anr in Criminal Appeal No. 1291 of 2008*.

Needless to state that in order to attract an offence under Section 306 of IPC, it is necessary to establish that a person has abetted a commission of suicide by playing an active role, by an act of instigating or by doing an act, which would facilitate the commission of suicide. Mere harassment without any positive action on part of the accused though proximate to the time of the occurrence of commission of suicide would not amount to an offence under Section 306 of IPC. Abatement necessarily contemplates an instigation for a person to take his life and instigation can be inferred from the acts or omissions resulting into such surrounding circumstances, that the deceased was left with no option but to commit suicide.

This aspect will therefore, have to be proved by way of positive evidence, as it is the case of the prosecution that the deceased suffered tremendous harassment and the applicant abetted

the commission of suicide.

Abatement necessarily involves a mental process of instigating a person or intentionally aiding a person in committing that act. It also postulate a positive act on part of the accused to instigate or aid in commission of the suicide. *Mens rea*, has to be established in commission of the offence and since at this stage, with the material compiled in the charge-sheet, which has being held sufficient to charge the applicant for an offence under Section 306 of IPC, it cannot be said that it fall short of making out the necessary ingredients of the offence under Section 306 of IPC.

Ultimately, whether the act attributed to the applicant is only an harassment or it travelled beyond it and amounted to instigation for the deceased to commit suicide, would be determined at the outcome of the trial, when the charge will have to be substantially proved by the prosecution.

Finding no legal infirmity in the impugned order, which has rejected the application preferred by the applicant, seeking discharge, and by upholding impugned order, the Revision application is dismissed.

(SMT. BHARATI DANGRE, J.)