

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.661 OF 2016

Bhalchandra Sarjerao Mahadik .. Applicant
v/s.
State of Maharashtra & Anr. .. Respondents

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Mr. Ghansham Jadhav, for the Applicant.

Mr. R.M. Pethe, APP, for State.

Mr. Rajesh Dharap, Appointed Amicus Curie, for Respondent No.2.

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CORAM: R.G. AVACHAT, J.

DATE : 21 FEBRUARY 2023.

P.C:-

Heard.

2. The challenge in this revision application is to the order dated 1 October 2016, passed by Additional Sessions Judge, Baramati on Application Exhibit-26 in Sessions Case No.47 of 2016. Vide order impugned herein, the Applicant's application for discharge came to be rejected. He is, therefore, before this Court.

3. The charge-sheet has been filed against the Applicant and two others for offences punishable under Sections 306, 504, 506 r/w 34 of IPC. FIR was lodged by one Vikas Bhosale on 29 November 2015. It has been averred in the FIR that the Informant, along with his family, are the resident of Village Supa, Taluka Baramati, Dist. Pune. They belong to Pardhi Community. The family would beg in the village to earn their living. In the very village, there is another family of one Bhanudas Vasant Shinde. He too belongs to Pardhi Community. His family also would beg to earn their living. There was a fight between family of Informant on one hand and that of Bhanudas. On 27 September 2015, the Informant and his family members were arrested. It is the specific case of the Informant that the Applicant herein is a local press reporter. He also claims to be an RTI activist. The Applicant threatened the Informant and his family that he would not allow them to stay in the village. He also threatened them of not allowing them to beg. He further gave the Informant and his family members threat to ensure that they are externed from the village. Because of the Applicant's behaviour, the Informant's wife was under tremendous pressure. The Informant had, therefore, been to his relation - Rajesh Bhosale, on 26 November 2015. Rajesh, in turn, talked with the Applicant on phone and requested to sit together to settle the matter. The Applicant was also requested not to take side of family of Bhanudas Shinde. Still the wife of the Informant was under pressure of threats. On the night, the family members went to sleep.

The informant woke up by 10.30 pm. to find his wife to have committed suicide by hanging. Within twenty-four hours of the incident, the Informant lodged the FIR against the Applicant, Vaishali Bhanudas Shinde and Sheetal @ Shilpa Ganesh Kale, alleging them to be responsible for the death of the Informant's wife.

4. Crime, vide C.R.No.I-224 of 2015, was registered. On investigation of the crime, the charge-sheet came to be filed. This Court has read the statements of persons acquainted with the facts and circumstances of the case. There is statement of Rajendra Bhosale. The statement corroborates averments in the FIR. It is his statement that he was informed that the Applicant had threatened the Informant and his family members to extort them from the village. He had, therefore, contacted the Applicant and requested to settle the matter. There is also statements of one Priyanka Pawar, Sunanda Bhosale and others.

5. Learned Advocate for the Applicant would submit that the Applicant could not be attributed with mens rea. According to him, mens rea is main ingredient of offence of abetment of suicide. According to him averments in the FIR and the statements of the witnesses, by no stretch of imagination, would prima facie lead to observe the Applicant to have any intention to drive the deceased to commit suicide. He relied on the judgment of Apex Court in *Sanju*

*Alias Sanjay Singh Sengar vs. State of M.P.*¹ has observed thus:

“A. Penal Code, 1860-S. 107 Firstly – Ingredients- Instigating a person to do a thing – Held, “instigate” denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite – Presence of mens rea is the necessary concomitant for instigation – Words uttered in a quarrel or on the spur of moment, such as “to go and die”, cannot be taken to be uttered with mens rea.

B. Penal Code, 1860 – S. 306 r.w S. 107 – Abetment of suicide – Quarrel taking place between appellant and deceased in which appellant was said to have told the deceased “to go and die”- Deceased found dead two days later - Held, suicide was not proximate to the quarrel though the deceased was named in the suicide note – Hence suicide was not the direct result of the quarrel when the appellant used abusive language and told the deceased to go and die.

C. Penal Code, 1860 – S. 306 – Suicide note – Appellant specifically named in suicide note which was otherwise not coherent and reflected disturbed state of mind - There was also evidence on record that the deceased always indulged in drinking and was not doing any work – Suicide note, taken with other circumstances, held, deserved no credence.”

Learned APP would, on the other hand, submit that the Applicant should not have indulged in moral policing. A lady belonging to Pardhi Community had to end her life because of sustaining threats extended by the Applicant herein. Learned APP

1 (2002) 5 Supreme Court Cases 371

supports the impugned order.

6. Considered the submissions advanced. Perused the FIR and all the police papers. The FIR has been lodged within twenty-four hours of the Informant's wife committing suicide. The Informant belonged to a Pardhi Community. He would beg to earn the living of his family. The Applicant allegedly threatened him and his family members to ensure that they would not be allowed to beg and would be externed from the village. The Applicant was requested to settle the matter. He did not respond. This Court is conscious of the fact that the intention is an essential ingredient of an offence of abetment of suicide. The averments in the FIR, statements of persons acquainted with the facts and circumstances of the case lead this Court to observe that the prima facie material to charge the Applicant with the offence punishable under Section 306 of the IPC is made out. The Applicant may have a good case on merits. It is reiterated that upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the trial court considered that there is sufficient ground for proceeding against the accused. This Court finds no reason to take a different view.

7. For all the aforesaid reasons, this Court is not inclined to interfere with the order impugned herein.

8. The revision application, therefore, fails. The same is dismissed.

(R.G. AVACHAT, J.)