



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4040 OF 2022

1. Dhananjay s/o Sharadrao Tawar
2. Pankaj @ Shekhar s/o Sharadrao Tawar ...Applicants

Versus

1. The State of Maharashtra
2. In-charge Police Inspector
Police Station Chikalthana
3. Suvarna w/o Babasaheb Ghuge ...Respondents

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Mr. P. M. Nagargoje, advocate for the applicants
Mr. A. R. Kale, A.P.P. for respondent Nos.1 and 2
Mr. Shyam C. Arora, advocate for respondent No. 3.

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AND
CRIMINAL APPLICATION NO. 4346 OF 2022

Aparna w/o Nitin Aghao ...Applicant

Versus

1. The State of Maharashtra
3. Suvarna w/o Babasaheb Ghuge ...Respondents

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Mr. R.U.Gavhane, advocate for the applicant
Mr. A. R. Kale, A.P.P. for respondent No.1
Mr. Shyam C. Arora, advocate for respondent No.2.

.....

AND
CRIMINAL APPLICATION NO. 550 OF 2023

Swapnil Karbhari Ghuge ...Applicant

Versus

1. The State of Maharashtra
3. Suvarna w/o Babasaheb Ghuge ...Respondents

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Mr. Sachin S. Shinde, advocate for the applicant
Mr. A. R. Kale, A.P.P. for respondent No.1
Mr. Shyam C. Arora, advocate for respondent No.2.

.....

AND
CRIMINAL APPLICATION NO. 573 OF 2023

Dnyaneshwar Dagadu Jadhav ...Applicant

Versus

1. The State of Maharashtra
3. Suvarna w/o Babasaheb Ghuge ...Respondents

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Mr. Datta S. Kale, advocate for the applicant
Mr. A. R. Kale, A.P.P. for respondent No.1
Mr. Shyam C. Arora, advocate for respondent No.2.

.....

AND
CRIMINAL APPLICATION NO. 4101 OF 2023

Shrikant Bhanudasrao Ghule ...Applicant

Versus

1. The State of Maharashtra
3. Suvarna w/o Babasaheb Ghuge ...Respondents

.....

Mr. Aniruddha B.Ghule Patil, advocate for the applicant
Mr. A. R. Kale, A.P.P. for respondent No.1
Mr. Shyam C. Arora, advocate for respondent No.2.

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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

**Date of Reserving : 20.12.2023
the Order**

**Date of pronouncing : 08.03.2024
the Order**

O R D E R (PER SANJAY A. DESHMUKH, J.):

1. The applicants are charge-sheeted vide C.R. No. 427 of 2022 for the offences punishable under Sections 306 r.w. 34 of the Indian Penal Code (for short "I.P.C.") registered with Chikalthana police station district Aurangabad.

2. It is averred in the report by the informant that her husband was a Civil Engineer and a Contractor. He was having three Highwas and one poclain machine to be used for excavating the sand. For that he took loan. He gave those vehicles on rent basis to these applicants. They were not paying that amount. Once the informant had asked him as to why he is worrying, at that time, he told her that some peoples, who are using those vehicles, are not paying rent amount. It is also averred that the officials of the Finance Companies were also harassing him. He was under tension.

3. It is further averred that on 18.10.2022, the informant went to

drop her daughter to the school. When she came back at about 8.15 a.m. that time she saw that her husband committed suicide by hanging him by rope in front of her house. A ladder was also lying there. She called her relatives and rescued him. He was unconscious. He was taken to the hospital. On examination, the doctor declared him dead. When the pockets of his pant were checked a suicide note was found in a pocket. In the said suicide note, the names of these applicants were mentioned. It is mentioned in it that one of the applicants viz. Smt. Aparna, is the sister of the informant. She instigated the quarrel between informant and her husband. She has caused stress to him. It is alleged that some of the applicants were not paying the amount towards rent of the machines to her husband. Accordingly the report was lodged. Suicide note was seized and charge sheet was filed.

4. Learned advocates for the applicants in respective applications submitted that the applicants are falsely implicated in the crime. There is no direct or indirect material showing instigation on their parts against the applicants to proceed further with the trial. The suicide note though written by the deceased, husband of the informant, it does not show any instigation in any manner on the part of these applicants. Unless there is abetment, mere suicide is not punishable. The essential ingredients of Section 107 of I.P.C. are not established. The applicants are falsely implicated in the crime. Learned advocates for the applicants placed reliance on the following

authorities:-

- i) Judgment of the Hon'ble Supreme court in the case of ***Mohit Singhal and Anr. vs. The State of Uttarakhand and others***, (Criminal Appeal No. 3578 of 2023, decided on 1.12.2023, in which, in the facts of the said case, the Hon'ble Supreme Court in para 11 has held that the offence punishable under section 306 of I.P.C. was not made out against the appellants. Therefore, the continuation of their prosecution will be nothing but an abuse of the process of the law.
- ii) Judgment of Hon'ble Supreme Court in the case of ***Arnab Manoranjan Goswami vs. State of Maharashtra and others, reported in (2021) 2 SCC 427***, in which the Hon'ble Supreme Court held that the ingredients for abetment to suicide must be proved by direct or indirect acts of instigation or incitement of suicide by the accused proximate to the time of occurrence, and the requisite *mens rea* to abet the suicide, in the facts and circumstances of the case.

In the said case, it is further held that the F.I.R. and suicide note though prima facie revealed harassment, there was no proof of instigation to commit suicide. Thus, held, prima facie it cannot be said that the appellant was guilty of having abetted the suicide within meaning of Section 306 of I.P.C. Furthermore, charge under Section 306 of I.P.C. is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled the person to commit suicide, which was prima facie absent in present case.

5. Learned advocates for the applicants lastly prayed that there is

no such evidence against these applicants to proceed further with the trial and therefore, they have prayed for quashing of the report.

6. Learned A.P.P. for the State and learned advocate for respondent No.2 informant strongly opposed the applications and submitted that the suicide note written by deceased Babasaheb Ghuge, is the strong evidence against the applicants showing their involvement in the crime. The applicants are arrested in serious crime. Therefore, their names are mentioned in the report. Learned A.P.P. and learned advocate for the informant pointed out the statements of witnesses which shows instigation. It is lastly prayed to reject the applications.

7. Perused the charge sheet and particularly report, statements of witnesses and suicide note. No doubt, the names of the applicants are mentioned in the suicide note and report. They may not have paid some amounts which were due to the husband of the informant. But it is a civil liability. It is not revealed either from the statements of witnesses that any of the applicants have directly or indirectly instigated the husband of the informant to commit suicide.

8. As far as applicant Aparna is concerned, it is alleged that she instigated quarrel between the informant and her husband. However, there is no such specific incident to show that she instigated the husband of the informant to commit suicide. Mere raising quarrel on

the part of the applicant Aparna does not establish ingredients of Section 107 of the I.P.C. to infer instigation to commit suicide on her part.

9. The essential ingredients of Section 107 of I.P.C. are not established from entire charge sheet. There is no material against these applicants. We are of the view that if the applicants are directed to face the trial, it would certainly be an abuse of process of the Court. The criminal applications therefore deserve to be allowed.

10. In view of the above reasons, the criminal applications are allowed. The crime No. 427 of 2022 registered with Chikalthana police Station, district Aurangabad for the offences punishable under Sections 306 and 34 of I.P.C., the consequential proceedings arising out the said crime are quashed and set aside.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

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