

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

90 CRIMINAL APPLICATION NO. 659 OF 2023

1. CHHAYABAI WD/O. PUNDLIK JAGTAP
2. MANISHA D/O. PUNDLIK JAGTAP
3. LALIT S/O. PUNDLIK JAGTAP
4. BHIKA BANDU SURADKAR
5. PAMABAI W/O. BHIKA SURADKAR

VERSUS

1. THE STATE OF MAHARASHTRA
2. BHAGWAT TOTARAM JAGTAP

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Advocate for Applicants : Mr. Deshpande Jagdish V.
And Mr. Shivaji N. Dhudhale

APP for Respondent No. 1 : Mr. M.M. Nerlikar

Advocate for Respondent No. 2 : Mr. D.A. Madke
h/f. Mr. S.P. Rathod

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 02 JANUARY 2024

PER COURT :

Heard learned Advocate for the applicant, learned APP and also learned Advocate for respondent no. 2 who is original informant.

2. This is an application under Section 482 of the Code of Criminal Procedure, seeking quashment of Crime No. 493 of 2022, registered with Chikalthana Police Station, Aurangabad, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

3. The sum and substance of the allegations, as can be discerned from the FIR and the charge sheet are to the effect that the

deceased who was husband of applicant no. 1 and father of applicant nos. 2 and 3 committed suicide and respondent no. 2 who happens to be his father alleges about the applicants having abetted it.

4. Learned Advocate for the applicants would take us through the charge sheet and would submit that apart from the fact that the FIR has been lodged after four months of the suicide, it is false and concocted. There is a reference about matrimonial dispute between the husband and wife but there is absolutely no iota of material in the charge sheet against rest of the husband's relations. He would submit that apart from family bickering there was something else which could have triggered the suicide. Merely because the deceased was fed up with the condition in his life, may be because of the family dispute particularly because the applicants were not getting along well with respondent no. 2 who is his father, it cannot be said that the applicants were harbouring any intention to instigate the deceased to commit suicide. He would also point out from the statement of the Headmaster of the School where the deceased was working that even the deceased was indebted to a bank and he used to remain under stress. He would also point out that just a day before the incident the applicant no. 1 had to lodge the non-cognizable report since the deceased was threatening her to commit suicide and implicate her. He would, therefore, submit that accepting the allegations in the FIR at the face value, the offence under Section 306 of the IPC cannot be made applicable.

5. Learned AGP and learned Advocate for respondent no. 2 would submit that charge sheet has already been filed. This Court cannot indulge in threadbare scrutiny of the material. Going by the allegations in the FIR coupled with the statements of the witnesses, the ingredients for constituting the offence punishable under Section 306 of the IPC can be made out.

6. Bearing in mind, the parameters laid down in the matter of *Bhajan Lal Versus State of Punjab and others*, (1971) 1 SCC 34, if one examines the charge sheet, it does appear that there has been a dispute between the applicants on the one hand and respondent no. 2 on the other. They had not been getting along well. There was insistence of the deceased to applicant no. 1 to co-habit with him at the place of his employment but she was adamant. However, accepting the allegations at their face value, not getting along well with the family members/applicants was not the only reason which was disturbing the deceased. As has been pointed, the Headmaster of the School expressly mentioned in the statement under Section 161 of Cr.p.c. that the deceased used to be under stress as his take home salary was less.

7. This apart, even the nature of the deceased can be discerned from the charge sheet, in as much as, in spite of the fact that the applicants were not having cordial relations with respondent no. 2, he purchased a property and ensured that respondent no. 2 was shown as his heir in spite of the fact that he was married to applicant no. 1 and was

having children. It is also apparent that, after the applicants started objecting to it, he took necessary steps for rectifying his nomination, whereby the name of respondent no. 2 was removed and replaced by the applicants' name.

8. We are pointing out these aforementioned circumstances to demonstrate that there were number of factors which collectively could have triggered the mental condition of the deceased which he was unable to sustain.

9. Pertinently, even according to the prosecution, a day before the incident, applicant no. 1 had lodged a non-cognizable report *inter alia* on the ground that the deceased was threatening her of committing suicide, so that, she could be implicated in the crime.

10. In view of such a state of affairs, in our considered view the ingredients for constituting the offence under Section 306 of the IPC read with Section 107 of the IPC, cannot be made out. The abetment as defined under Section 107 could be by way of instigation, providing intentional aid or by way of hatching conspiracy. Since the prosecution has been only relying upon the first kind of the abetment, the aforementioned circumstances would bely the allegations.

11. In view of the guidelines laid down in the matter of *Bhajan Lal* (supra), it would be sheer abuse of process of law if the applicants

are allowed to face the trial based on the quality of evidence collected by the Investigating Officer.

12. Criminal Application is allowed. Crime No. 493 of 2022 registered with Chikalthana Police Station, Aurangabad, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, which is also numbered as RCC No. 2107/2023 pending before 11th JMFC, Aurangabad, is hereby quashed and set aside.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]