



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

**CRIMINAL APPLICATION NO. 734 OF 2023**

. Balaji S/o. Ganpatrao Kanthewad  
Age: 53 years, Occ. : Contractor,  
R/o. Shrudha Nivas, Janki Nagar,  
Airport Road, Near Hanumannagar Temple,  
Nanded, Tq. & Dist.Nanded. ....Applicant

Versus

1. The State of Maharashtra  
Through Vivekanand Chowk Police Station,  
Dist.Latur.
2. Sonali Wd/o Satish Naik  
Age: 29 years, Occu. : Household,  
R/o. House No.301, Third Floor,  
Keshav Apartment, Dnyaneshwar Nagar,  
LIC Colony, Latur,  
Tq. & Dist.Latur. ....Respondents

.....

Advocate for Applicant : Mr. Dhananjay M. Shinde

APP for Respondent no.1 : Mr.S.A.Gaikwad

Advocate for Respondent no.2 : Mr. J.M. Murkute (absent)

.....

**CORAM : SMT. VIBHA KANKANWADI &  
ABHAY S. WAGHWASE, JJ.**

**DATE : 20 AUGUST, 2024**

**ORDER (PER ABHAY S. WAGHWASE, J.) :**

1. By invoking provisions under Section 482 of the Code of Criminal Procedure, applicant herein is seeking quashment of FIR registered at Vivekanand Chowk Police Station, Latur for offence punishable under Section 306 read with 34 of the Indian Penal Code (IPC).

2. Learned Counsel for the applicant would point out that present applicant is a contractor. One staff of M.S.E.B. namely Satish Naik committed suicide on 04-06-2019 at his own place. His wife respondent no.2 approached Police alleging that her husband committed suicide because of alleged harassment at the hands of present applicant and Deputy Engineer Gadekar, another contractor Sachin Morkhande, and three others, resulting into the FIR. According to learned Counsel for the applicant, deceased committed suicide for the reasons known to him. That there was no harassment as alleged. That infact there is no material in the FIR or even in the chargesheet even suggesting abetment, inducement or instigation to commit suicide. Furthermore, there are general allegations. That no role or positive act is attributed to present applicant. That there was no previous complaint against applicant and others at any point of time. On the contrary, certain irregularities were committed by deceased himself. That applicant has no concern with any of the official work, he being private contractor. However, merely because wife of deceased / respondent no.2 has named present applicant, he is constrained to approach this Court. That considering nature of allegations, benefit of anticipatory bail was already granted and he co-operated in investigation. Now chargesheet is filed but there is no

iota of evidence against applicant for commission of offence under Section 306 read with 34 of the IPC and hence, to avoid ordeal of trial, prayers for quashing the FIR are pressed into service.

3. Above application is opposed by the learned APP pointing out that there are specific allegations of harassment by applicant and others. Suicide is committed on 04-06-2019. That deceased disclosed informant wife the treatment meted out to him by persons named in the report. Therefore, after FIR, investigation was carried out and according to learned APP, case for trial has been made out and on such count application is opposed.

4. Here prayers are for quashing the FIR regarding commission of offence under Section 306 of the IPC.

5. In order to attract the charge of Section 306 of IPC, it is incumbent upon prosecution to establish incitement, instigation, aiding or abetment to commit suicide. Scope of Sections 107 and 306 has been time and again decided by the Hon'ble Apex Court in the cases viz; *State of West Bengal v. Orilal Jaiswal* reported in (1994) 1 SCC 73; *Ramesh Kumar v. State of Chhatisgarh* reported in (2001) 9 SCC 618; *Sanju @ Sanjay Singh Sengar v. State of M.P*

reported in (2002) 5 SCC 371; *Chitresh Kumar Chopra v. State* reported in (2009) 16 SCC 605; *Amalendu Pal alias Jhantu v. State of West Bengal* reported in (2010) 1 SCC 707; *State of West Bengal v. Indrajit Kundu and others* reported in (2019) 10 SCC 188; *Rajesh v. State of Haryana* reported in (2020) 15 SCC 359; *V.P.Singh etc. v. State of Punjab and others* reported in 2022 SCC Online SC 1999 and very recently in the case of *Kumar @ Shiva Kumar v. State of Karnataka* [Criminal Appeal No. 1427 of 2011 decided on 01.03.2024].

In above series of cases, it has been held and reiterated that accused persons should specifically intend that deceased should end up his/her life. With that object in mind, if they deliberately create circumstances, which are of such nature, that deceased is left with no other alternative but to end up his/her life, only then charge of abetment to commit suicide can be said to be successfully brought home. Abetment, inducement or instigation to commit suicide are equally essential factors to be proved by prosecution.

6. Bearing above legal position in mind, FIR is studied. At the outset, it is noticed that informant has approached Police on 09-06-2019 with regard to suicide committed by her husband Satish on 04-06-2019. FIR also shows that in early hours of the morning in

their house, deceased had hanged himself. Sum and substance of report by respondent no.2 / informant is that, deceased was in service of M.S.E.B. as a Section Engineer and was also suspended in 2016. She has alleged that, however, he was reinstated but transferred and was working at Nilanga. According to informant, after resuming work at Nilanga, her husband disclosed her that one Deputy Engineer Gadekar, his colleagues Sachin Morkhande, Contractor Kanthewad, Ajale, Choudhari, Giri and Telang were harassing him. In report itself, she stated that she questioned deceased that for what he was harassed, but her husband did not disclose her anything. She claims that on 02-06-2019, her husband sent her WhatsApp message but as she could not understand it, she further forwarded it to her brother Nitin and in said message, deceased had conveyed harassment. That all relatives, who received such message had also come to their house on 03-06-2019 and deceased was given understanding. Between 04:00 a.m. to 05:30 a.m. on 04-06-2019, her husband hanged himself. Admittedly, after five days of suicide, above report has been lodged. Secondly, informant herself does not know on what count, there was harassment by persons named in the report. Therefore, with such allegations and when there is no material to show any positive or

active role played by the applicant in proximity to alleged suicide dated 04-06-2019, it is unreasonable to connect applicant to the unfortunate incident. There is no whisper of abetment, inducement or instigation, which are essential ingredients for attracting Section 306 of the IPC.

7. Therefore, in the considered opinion of this Court, considering the FIR, statements of witnesses recorded by Police, which are apparently stereotype, making applicant face trial would definitely amount to hardship and injustice. In the considered opinion of this Court, with such material on record, exercise of trial would be in futility and so applicant succeeds. Accordingly, following order is passed :

### **ORDER**

- I. The application is allowed.
- II. The FIR No.0235 of 2019 dated 09-06-2019 registered with Vivekanand Chowk Police Station, Latur, Chargesheet arising out of it and the proceedings in RCC No.1639 of 2023 pending before the learned JMFC, Latur, District Latur, are hereby quashed and set aside.

( **ABHAY S. WAGHWASE** )  
**JUDGE**

SPT

( **SMT. VIBHA KANKANWADI** )  
**JUDGE**