



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 CRIMINAL REVISION APPLICATION NO. 6 OF 2024

Mukesh Kumar Prithvisingh

VERSUS

The State of Maharashtra

...

Advocate for Applicant : Mr. Rahul R. Karpe

APP for Respondents: Mr. Mukesh K. Goyanka

.....

CORAM : SANJAY A. DESHMUKH, J.

DATED : 22nd MARCH, 2024.

PER COURT :-

1. The applicant has challenged the order dated 15.07.2023 passed by the learned Additional Sessions Judge, Ahmednagar below Exh. 5 in Sessions case No. 257 of 2022. It was an application for discharge under Section 227 of the Code of Criminal Procedure, 1973.

2. The report is lodged by the husband of deceased, alleging that his wife was having illicit relations with the applicant and therefore, she committed suicide. The applicant forced her to develop such relationship with him.

3. The grounds for discharge as per Section 227 of the Cr.P.C. are that essential ingredients of Section 107 of the I.P.C. are not prima facie established and for constitution of offence under Section 306 of I.P.C.. there is no direct or circumstantial evidence to

establish that the applicant instigated and abetted deceased-wife of the informant to commit suicide.

4. Learned advocate for the applicant pointed out the extract of chatting took place between the applicant and deceased-wife of the informant. The chatting shows that there was love affairs between them. On the last date, prior to committing suicide by the wife of the informant, a chatting took place between them, which shows that the applicant said her that somebody is waiting and “भेजा मत खराब करो”. Upon that she committed suicide. Learned advocate for the applicant is relying upon the authority of the Hon'ble Supreme Court in the case of ***Kanchan Sharma vs. State of Uttar Pradesh and another, reported in (2021) 13 SCC 806***, in which in para 16, it is held as under:-

“16. By applying the aforesaid ratio decided by this Court, we have carefully scrutinized the material on record and examined the facts of the case on hand. Except the statement that the deceased was in relation with the appellant, there is no material at all to show that appellant was maintaining any relation with the deceased. In fact, at earlier point of time when the deceased was stalking the appellant, the appellant along with her father went to the police station complained about the calls which were being made by the deceased to the appellant. Same is evident from the statement of S.I. Manoj Kumar recorded on 05.07.2018. In his statement recorded he has clearly deposed that the father along with the appellant went to the police post and complained against the deceased who was

continuously calling the appellant and proposing that she should marry him with a threat that he will die otherwise. Having regard to such material placed on record and in absence of any material within the meaning of Section 107 of IPC, there is absolutely no basis to proceed against the appellant for the alleged offence under Section 306 IPC and Section 3(2)(v) of the Act. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever.”

5. Learned A.P.P. strongly opposed the application and submitted that the applicant is married and he had forcibly developed illicit relations with the wife of the informant, who was opposing for it. The record of chatting shows that there was discord between the wife of the informant and the applicant. It shows that she was repented, at that time when the applicant said that somebody is waiting for him and “भेजा मत खराब करो”. Thereafter, the wife of the informant committed suicide. There is independent evidence of chatting between the applicant and the wife of the informant soon before the incident of commission of suicide. Thus, the ingredients of Section 107 of I.P.C. are established. Learned A.P.P. pointed out the impugned order in which the trial court has held that the applicant has instigated the deceased to commit suicide. He lastly prayed to reject the application.

6. Perused the report and the chatting between the applicant and the wife of the informant. It reveals that there was illicit

relationship between them. The brother of the wife of the informant states in his statement that the applicant used to come in the house of the informant, which was improper and thereafter, his sister committed suicide. It is well settled that there must be sufficient evidence of abetment to commit suicide. Soon before death mere commission of suicide is not sufficient but the abetment which drives a person to commit suicide shall be soon before the death. The chatting between the wife of the informant and the applicant shows refusal on the part of the applicant. Merely saying by the applicant that “भेजा मत खराब करो” is not sufficient to infer abetment or instigation to commit suicide. This aspect was not considered by the trial court while passing the impugned order under Section 227 of the Cr.P.C.

7. Considering the ratio laid down in the authority of **Kanchan Sharma (cited supra)** and particularly the material placed on record i.e. report, chatting and the statement of brother of wife of the informant, there is no such material to establish instigation and abetment on the part of this applicant. The findings given by the learned trial court are not correct, legal and proper. Therefore, interference is warranted in the impugned order. The application filed by the applicant at Exh.5 in Sessions Case No. 257 of 2022 for discharge of the applicant deserves to be allowed. Hence, the following order:-

O R D E R

8. Criminal Revision application is allowed.
9. The impugned order dated 15.07.2023 passed by the learned Additional Sessions Judge, Ahmednagar below Exh. 5 in Sessions case No. 257 of 2022 is set aside.
10. The applicant is discharged from the Sessions Case No 257 of 2022, pending before the learned Additional Sessions Judge, Ahmednagar, for the offences punishable under Section 306 r.w. 506 of I.P.C.

(SANJAY A. DESHMUKH, J.)

rlj/