

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 21 OF 2024

VASANT KISAN SHELKE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Satyaram R. Gaud, for the Applicant.

Mr. A.R. Patil, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 10, 2024

P.C. :

1. Heard learned counsel for the applicant, learned APP for the respondent.
2. The revision application is filed challenging the order passed by the trial Court rejecting the application made by the applicant for his discharge. The applicant is the father-in-law of Manisha. The marriage of Manisha was solemnized on 29/12/2018. One year post marriage, on 12/01/2020, Manisha committed suicide at her parental home. The complaint was lodged by Manisha's brother on 13/01/2020 and the offence was registered against in-laws under sections 304B, 306, 498A, 504, 506 of the Indian Penal Code, 1860 ("IPC", for short).

3. Learned counsel for the applicant submitted that the trial Court was in error in rejecting the application. It is submitted that on a stray statement made by the brother of the deceased that the applicant rushed towards the deceased, the offence is registered. According to learned counsel, this cannot be an incriminating circumstance for registering the offence. It is further submitted that there is no overt act attributed to the applicant to come to the conclusion that there are prima facie materials which satisfies the ingredients constituting the offence alleged. Relying on the suicide note, learned counsel submitted that deceased Manisha has made the specific allegations only against the mother-in-law and her sister-in-law and there is no reference to the applicant in such suicide note. Learned counsel for the applicant relied upon the decision of the Supreme Court in the case of **Kashibai and ors. Vs. The State of Karnataka** decided on 28/02/2023 in Criminal Appeal No. 627 of 2023 to contend that mere fact of commission of suicide by itself would not be sufficient for the Court to raise the presumption under section 113A of the Evidence Act and to hold the accused guilty of section

306 of IPC.

4. Learned APP on the other hand invited my attention to the materials on record i.e. the statements of the witnesses i.e. brother of the deceased, mother of the deceased, neighbours to support the order passed by the trial Court. He submits that there are materials on record to show the complicity of the applicant. My attention is invited to the observations by learned trial Court.

5. I have heard learned counsel for the applicant and learned APP. I have also perused the relevant statements of the witnesses. The deceased committed suicide at her parental home just one year after the marriage. So far as the submission of learned counsel for the applicant that there is no mention of the applicant in the suicide note which would justify the applicant seeking discharge, I find that there are other materials on record which prima facie indicates the involvement of the applicant. The statement of the brother of the deceased, his wife and other relatives and neighbours does indicate that the deceased was being harassed by her in-laws. There are specific allegations against the applicant that he rushed angrily towards the

deceased for non-fulfillment of dowry demand prior to the incident. The statement of the neighbours does indicate that the deceased was being harassed by her in-laws. At this stage, it is not possible for me to appreciate the evidence and record an acquittal as learned counsel for the applicant wants me to. At this stage, what is to be seen is whether on the basis of the materials taken at its face value, the ingredients constituting the alleged offence with which the applicant is charged is made out. I have perused the order passed by the trial Court. The trial Court in paragraphs 8 to 10 observed thus :

“8. The contents of FIR and statement of witnesses clearly indicate the allegations of unlawful demand, physical and mental harassment of the deceased at the hands of the applicant No. 02, his wife and daughter. Prima-facie it is further seen that when the deceased made phone call to the applicant No. 01, he came out of the house by opening the door when the applicant No. 02 drove the deceased out of the house. Prima-facie the omission on the part of the applicant No. 01 clearly indicates his consent and participation in the aforesaid incidents.

9. The contents of FIR and the statement of the informant and his wife clearly indicate that they are the best persons who can state about the allegations of harassment, as the deceased herself has disclosed them about it. The ratio laid down in Chitresh Kumar (Supra) is applicable in the present case. It is well settled that if on the basis of materials on record, a Court could come to the conclusion that commission of offence is a probable consequence, a case of framing of Charge exists. In the present case, the informant and his wife stated the crucial information

on the day of incident. In addition to that, witness Varsha Khan stated that on 12.01.2020 the deceased told her while weeping that " माझ्या आयुष्याची वाट लागली, मी पुन्हा येणार नाही". She has also stated that at around 9.38 pm to 9.39 pm she received Whats app message from the mobile phone of deceased that deceased will never meet her as her life is spoiled. Therefore, it cannot be said that no material is placed on record by the prosecution against the applicants. If a married woman is happy at her matrimonial home, there is no reason for her to commit the suicide. Thus, there is prima-facie and sufficient material which clearly indicate the role of the applicants in the commission of offence.

10. Considering the facts and circumstances and the aforesaid discussion, I am of the view that prima-facie case is made out by the prosecution to frame the Charge against the accused. Therefore, I am not inclined with the submission of the learned defence advocate that the accused are entitled for getting discharge."

6. I do not see any reason to warrant interference with the order passed by the trial Court. The application is rejected.

7. It is made clear that these observations are limited to deciding the present application and trial may proceed on its own merits uninfluenced by any observations made by me in this order.

(M. S. KARNIK, J.)