

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 368 OF 2024**

Arunarani R. Poddar @
Mrs. Arunarani K. Jain
Versus

...Applicant

1. State of Maharashtra
2. Sunil B. Bishnoi

...Respondents

Mr. Manish N. Jain a/w. Ms Ritu G. Gehlot and Mr. Prasad D. Mundhe i/b S.M. Jain Associates for the Applicant.
Ms Rutuj Ambekar, APP for the Respondent/State.
Ms Sailee Dhuru for Respondent No.2.

**CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.
DATE : 17.04.2024.**

PC:-

1. The applicant is charge-sheeted for the offence under Section 306 of the Indian Penal Code. The law was set into motion by FIR dated 5.3.2022 registered with Navghar Police Station, Mira-Bhayander, Vasai-Virar vide C.R. No. 162 of 2022 for offence under Section 306 of the IPC.

2. The First Information Report was registered at the instance of respondent No.2, who is the brother of deceased. It is alleged that the deceased was working at Mumbai. He was acquainted with the accused. The complainant received an information that the deceased has been hospitalised. He came to Bhayander. Subsequently, he learnt that his brother has committed suicide by hanging to the hook installed in the ceiling of the house. Suicide note was found in the house. In the suicide note, it was stated that the deceased is in disturbed

state of mind and that one lady was harassing him by demanding money and issuing threats to him. Hence, he is committing suicide. The incident of suicide had occurred on 4.3.2022. The FIR was registered on 5.3.2022 and the investigation was proceeded. During the course of investigation, the suicide note as well as voice messages forwarded to co-employees were recovered. On completing investigation, charge-sheet is filed.

3. Learned Advocate for the applicant submitted as under:

a] Assuming the allegations spelt out in the FIR and the statements of witnesses to be true, the offence under Section 306 of the IPC is not made out;

b] To constitute the offence under Section 306 of the IPC, there has to be evidence of instigation and abetment to commit suicide;

c] The FIR and the other materials on record would indicate that the deceased was in relationship with the accused. There was exchange of messages between them. He has allegedly committed suicide on account of the fact that the accused was demanding money. These allegations would not sufficient to invoke Section 306 of the IPC.

d] The contents of suicide note and the voice messages relied upon by the prosecution is contrary to each other;

e] The last message exchanged between the accused and the deceased was of 15.2.2022 and the incident of suicide had occurred on 4.3.2022. There is no proximity in the alleged demand of money and the incident of suicide.

4. Learned APP for the respondent/State and learned Advocate for respondent No.2 submitted that the charge-sheet satisfied the requirements of Section 306 of the IPC. The prosecution is relying upon the suicide note, voice recording messages of deceased and the statements of various witnesses which would indicate that the accused was causing harassment to the victim which compelled him to take drastic steps of committing suicide. There is sufficient evidence to establish that the deceased has committed the offence under Section 306 of the IPC. At this stage, the grounds urged by the applicant cannot be appreciated and the defence will have to be proved during the trial.

5. The FIR has been registered by the brother of deceased. From the contents of FIR and the other materials on record, it is apparent that the accused and the deceased were in relationship. The voice messages and suicide note mention that some lady is demanding money, as a result of which, the victim was compelled to commit suicide. From the tenor of messages exchanged between the accused and the deceased, it appears that they were closely acquainted with each other. They were in relationship. The accused had initially demanded money for getting day to day expenses including grocery and lastly, demanded some amount as reflected in the FIR.

6. To constitute the offence under Section 306 of the IPC, there has to be evidence indicating instigation which would constitute abetment to commit suicide. There has to be existence of elements of *mens rea* for the act committed by the accused for establishing the charge under Section 306 of the IPC.

7. Undisputedly, the deceased and accused were in relationship. Mere demand of money would not constitute instigation or abetment to commit suicide. There should be intention to provoke, instigate or encourage the doing of an act by the latter. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide. It is settled law that to constitute the offence under Section 306 of the IPC, the prosecution has to establish the ingredients of *mens rea* to commit the offence. In the light of aforesaid factual matrix, we do not find that the prosecution has made out *prima facie* case to charge the applicant for offence under Section 306 of the IPC. Hence, the impugned proceedings are required to be quashed and set aside

ORDER

A] Criminal Application is allowed.

B] The proceedings in Sessions Case No. 101 of 2024 pending in the Court Sessions Judge, Thane arising out of FIR dated 5.3.2022 registered with Navghar Police Station

vide C.R. No. 162 of 2022 for offence under Section 306 of the IPC against the applicant are quashed and set aside.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)