



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 572 OF 2023

Shayan s/o Salman Suse
Aged about 36 years, Occ. Private,
R/o. A Wing, Safa Apartment
Cooperative Society, Near Torrent
Power Office, Ampada Road, 4th
Nizampura Bhiwandi, Dist. Thane.

}

... Applicant

Versus

1. The State of Maharashtra,
Through P.S.O. Beltarodi,
Police Station,
District – Nagpur.

}

2. Suraj Tukaram Kolhe
Aged 27 years,
411, Police Line Takli,
Gittikhadan, Nagpur.

... Non-applicants

Mr. Firdos Mirza, Advocate for applicant.
Mr. I.J. Damle, APP for non-applicant No.1.

CORAM : VINAY JOSHI, AND
SMT. VRUSHALI V. JOSHI, JJ.
DATE : 12.04.2024

ORAL JUDGMENT: (PER: Vinay Joshi,J)

Heard finally by consent of both the learned counsel
for the parties.

(2) Admit.

(3) This is an application seeking to quash FIR in Crime No.530/2022 registered with Police Station Beltarodi, Nagpur, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

(4) Learned counsel for the applicant would submit that police report and the material collected during the course of investigation does make out a case of abatement to suicide *qua* the petitioner. Particularly, it is argued that there was no contact of applicant with the deceased at any point of time still on suspicion he has been arrayed an an accused. It is argued that though the suicide note names the applicant, however, reading of the entire suicide note discloses that the allegations are against applicant's wife Tina. The State resisted this application by producing the copy of suicide note and investigation papers.

(5) One Sushil committed suicide on 12.11.2022 by consuming insecticide. Initially, merg was registered and enquiry was made. None of the family members of the deceased made a grievance therefore, after lapse of one month, the police have lodged report making a case of abatement. Mr. Kolhe - Police Inspector stated that a

suicide note was found below the bed of the deceased naming the applicant's wife Tina and one Paresh alleging the case of abatement.

(6) Though the applicant married long back with co-accused Tina, she left the applicant from the last two years and was staying with the deceased Sushil. There was a difference between Sushil and Tina followed by the incident of suicide. Besides, suicide note there is no material on record to indicate the role of applicant. Rather we may say that a suicide note is also silent about any positive act on the part of the applicant to construe it as a case of abatement. A handwritten suicide note says that though Tina was living with applicant all the time she was pressurizing and humiliating him. The entire suicide note conveys that the deceased was blaming to Tina for pressurizing him. Though the name of applicant is mentioned, however, it was without any specification.

(7) It appears that the deceased was residing with Tina. Though Tina left her matrimonial relations with applicant, however, she was visiting to the house of applicant which appears to have been disapproved by the deceased. Perhaps, the deceased was not satisfied about the behaviour of Tina which put him under frustration. Merely because somebody was named in the suicide note, that by itself does

not amount to an act of abatement. The law in this regard is fairly well settled. The applicant's learned counsel relied on the decision of this Court in the case of *Bhartendra S/o Dhanraj Bhoyar Vs. The State of Maharashtra & anr. 2023 ALL MR (Cri.) 2117*, wherein this Court has taken a resume of several decisions of the Hon'ble Supreme Court while holding that mere allegations of harassment are not sufficient but there should be material to indicate a positive act on the part of the applicant.

(8) We have carefully examined the entire material but unable to find anything against the applicant to construe as an act of abatement. In the circumstances, continuation of prosecution against the applicant amounts to abuse of the process of the Court.

(9) In view of above, the application is allowed. We hereby quash and set aside FIR in Crime No.530/2022 registered with Police Station Beltarodi, Nagpur, against the applicant for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

[VRUSHALI V. JOSHI, J.]

[VINAY JOSHI, J.]

Prity