



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

(1) CRIMINAL APPLICATION (APL) NO.905/2024

Snehal W/o Amit Nimbhorkar,
aged about 36 Yrs., Occ. Private Job,
R/o Santaji Nagar, Nr. Shankar Nagar,
Amravati, Tq. & Distt. Amravati. ... Applicant

- Versus -

1. The State of Maharashtra,
through P.S.O. Kholapuri Gate,
Tq. & Distt. Amravati.
2. Sujeet Gangaram Rathod,
aged about 45 Yrs., R/o Balaji Nagar,
Near Gadgadeshwar Temple,
Amravati, Tq. & Distt. Amravati. ... Non-applicants.

AND

(2) CRIMINAL APPLICATION (APL) NO.904/2024

Sadhana Rajesh Shende @ Sadhana
Haribhau Bagmare,
aged about 58 Yrs., Occ. Principal,
R/o Gadge Nagar, Amravati,
Tq. & Distt. Amravati. ... Applicant

- Versus -

1. The State of Maharashtra,
through P.S.O. Kholapuri Gate,
Tq. & Distt. Amravati.
2. Sujeet Gangaram Rathod,
aged about 45 Yrs., R/o Balaji Nagar,

Near Gadgadeshwar Temple,
Amravati, Tq. & Distt. Amravati. ... Non-applicants.

AND

(3) CRIMINAL APPLICATION (APL) NO.861/2024

Saroj Narendra Deshpande (Dani),
aged about 53 Yrs., Occ. Service,
R/o Pushpak Colony, Near
Gadgadeshwar Temple, Amravati,
Tq. & Distt. Amravati. ... Applicant

- Versus -

1. The State of Maharashtra,
through P.S.O. Kholapuri Gate,
Tq. & Distt. Amravati.
2. Sujeet Gangaram Rathod,
aged about 45 Yrs., R/o Balaji Nagar,
Near Gadgadeshwar Temple,
Amravati, Tq. & Distt. Amravati. ... Non-applicants.

Mr. Sawan Alaspurkar, Advocate for the applicant. (in all matters)
Mrs. K.H. Bhondge, A.P.P. for non-applicant No.1. (in all matters)

CORAM: VINAY JOSHI & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 19.9.2024.

JUDGMENT (Per Vrushali V. Joshi, J.)

Heard Mr. Sawan Alaspurkar, Advocate for the applicant and Mrs. K.H. Bhondge, A.P.P. for non-applicant No.1. In all matters none appears for non-applicant No.2 though served. **Rule.**

2. As the applicants are arraigned as accused on the basis of one and the same F.I.R. i.e. F.I.R. No.0061/2024 these applications are disposed of by common judgment.

3. The applicants in above three applications are challenging the same F.I.R. i.e. F.I.R. No.0061/2024 registered by non-applicant No.1 for the offence punishable under Section 306 read with Section 34 of Indian Penal Code and Section 17 of Right of Children to Free and Compulsory Education Act, 2009. The applicants are the school Teacher, Principal and the Invigilator in the school. In all the three applications the allegations are that a small girl studying in 8th standard had committed suicide as she was caught by these applicants while

copying in examination by using a chit. On the basis of F.I.R. lodged by father of deceased the crime is registered.

4. The facts in brief are as under:-

The deceased Janhavi was studying in 8th standard in Scholars Convent, Dasara Maidan, Amravati. On 15.3.2024 she had committed suicide by jumping from 8th floor of Radhakrushna Residency, Balaji Nagar, Amravati. The father of deceased received a phone call, when he was at his workplace, informing that his daughter is admitted in hospital as she met with an accident. When he came to hospital, he came to know that his daughter had committed suicide by jumping from Radhakrushna Residency. When parents of other students from said school reached there father of Ayush Awaghad, has told him that his son informed him about the incident in school that at about 9 a.m. to 12 p.m. his daughter i.e. Janhavi was solving Sanskrit paper. During the examination, a chit was found of Sanskrit subject. Teacher Abmhorkar took said chit and put it on

table. Thereafter Saroj Dani, who is teaching Sanskrit subject, came there and she asked from whom this chit is found. At that time, it was informed that it was found with Janhavi Rathod i.e. deceased. She took her to Principal Sadhna Shende and thus she was defamed. She was threatened in the room of Principal and applicants gave threat that they would inform about it to her parents. The father of said Ayush has told the informant that his son told him that Dani Madam told about it to other students of adjacent classroom by going there and stating that the chit was found in adjacent classroom with Janhavi who was asked to sit in office for two and half hours. Her answer paper was with the Principal. The Principal had not considered the psychology of the child and by pressurising and giving threats to her the deceased was defamed and she had committed suicide. The F.I.R. was lodged and the crime is registered against all the three applicants in these three applications.

5. Learned Advocate for the applicants has stated that there is no investigation against the Teachers, the allegations are

made that she was asked to sit in the room of Principal but she was allowed to solve the paper by sitting in said room. The Teachers have done their duty. They reprimanded her not to do such illegal acts and to refrain her from doing such activities in future and asking the other students not to commit such acts it was unintentionally informed in other classroom. There is no instigation on the part of the applicants. The ingredients of offence under Section 306 of I.P.C. are not attracted. Hence prayed to quash the F.I.R. against all the three applicants.

6. Learned A.P.P. opposed the applications stating that statements of all students are there. The deceased was defamed. The offence under Section 17 of Right to Information Act is also registered against these applicants. Being Teachers they should have taken care of child and her psychology while giving understanding to her not to do such act in future. The abetment is there. They defamed her and it was not tolerated by her and

hence she had immediately committed suicide while going to her house. Hence prayed to reject the applications.

7. Heard learned Advocates for the parties and perused the record.

8. While considering the offence under Section 306 of I.P.C. we have to consider the provisions of Section 306 I.P.C. which are as under:-

“306. Abetment of suicide.- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

9. We have also to consider Section 107 of I.P.C. which reads as follows:-

*“107. Abetment of a thing - A person abets the doing of a thing, who -
First. - Instigates any person to do that thing; or
Secondly. - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of*

that conspiracy, and in order to the doing of that thing; or

Thirdly. - Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2. -Whoever either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

10. In the case of S.S. Cheena V/s. Vijay Kumar Mahajan and Anr. reported in (2010) 12 SCC 190 it is observed as under:-

“Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306 IPC there has to be a clear *mens rea* to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”

11. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decision above referred, instigation means to goad, urge, forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 of I.P.C. If the accused plays an active role in tarnishing self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of *mens rea* on the part of the accused in such cases would be examined with

reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing for more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide.

12. What is required to constitute an alleged abetment of suicide under Section 306 of I.P.C. is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself unless there are allegations of such actions on the part of the accused which compelled the commission of suicide. If the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration

the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.

13. In the backdrop of the above discussion, we may now advert to the facts of the present case to test whether the ingredients of Section 306 of I.P.C. exist, even *prima facie*, to continue with the investigation.

14. On perusal of F.I.R. it appears that the informant who is the father of the deceased initially came to know about the accidental death of the daughter. Thereafter parents and the students informed him about the incident that when deceased was solving the paper the chit was found in her compass box and the Invigilator, Class Teacher and the Principal of the school have taken action. She was scared as one of the friend Aarushi has stated about it that Janhavi has disclosed that she is afraid of going to home. She was afraid about the reaction of her parents after knowing the act committed by her. Learned A.P.P. took us

through the police papers. In statement of Devansh he has narrated about the incident with Wansh on 13.3.2024 stating that the chit was found with him on 13th and teacher reprimanded him and took his paper for some time. On 15th the chit was also found with deceased. Thereafter allegations are made against the Teacher, Invigilator and Principal. After some time Dani madam informed all the students that in the adjacent classroom the chit is found with Janhavi Rathod and if anybody is having chit with them handover it to Teacher and she went away. As Dani madam had informed about it to other students the deceased felt it as if she is defamed. He has also stated that thereafter Janhavi was sitting in staffroom and the paper was handed over to her. From the statement of this witness it appears that only because the chit was found and Dani madam informed about it to other students the allegations are made about abetment.

15. It is a duty of a Teacher to instil discipline in the students. It is not uncommon that Teachers reprimand a student for not being attentive or not being up to the mark in studies or

for bunking classes or not attending the school. The disciplinary measures adopted by a Teacher or authorities of a school, reprimanding a students for hir indiscipline, in our considered opinion, would not tantamount to provoking a student to commit suicide, unless there are repeated specific allegations of harassment and insult deliberately without any justifiable cause or reason. A simple act of reprimand of a student for his behaviour or for indiscipline by a Teacher, who is under moral obligations to inculcate the good qualities of a human being in a student would definitely not amount to instigation or intentionally aid the commission of a suicide by a student. Under Section 24(e) of Right of Children to Free and Compulsory Education Act, 2009 it is specifically provided that it is not only a moral duty of a Teacher but one of a legally assigned duty.

16. In this case all the three applicants have found that the deceased was cheating in exam. The chit was found and, therefore, she was taken to staff room and there the paper was given to her to solve. To alert other students the incident was

informed to them. From the act of teacher it appears that the intention was not there to defame the deceased. The disciplinary action taken by the Teachers cannot be said to be abetment as per Section 107 of I.P.C.

17. The offence under Section 17 of the Right of Children to Free and Compulsory Education Act 2009 is also registered. As per this section (1) no child shall be subjected to physical punishment or harassment, (2) whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person. In this case as there is no mental harassment as for the future good conduct of the child/student the Teaching staff have taken action not to do wrong things which cannot be termed as mental or physical harassment as per Section 17. Hence no offence is made out against the applicants under Section 17 of said Act.

18. As per the observations made in State of Haryana and Ors. V/s. Bhajan Lal and Ors. reported in (1992) Supp (1) SCC 335 the Hon'ble Supreme Court has laid down following categories of cases wherein such power could be exercised either to prevent abuse of process of Court or otherwise secure the ends of justice.

“(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) *where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

(6) *where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

(7) *where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

19. In the case of M/s. Zandu Pharmaceuticals Works Ltd. and Ors. V/s. Mohd. Sharaful Haque and Anr. reported in

(2005) 1 SCC 122 this Court has observed as under:-

“It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is

sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.”

20. Insofar as the allegations made against these applicants are concerned, no offence is made out against all the three applicants. Considering the allegations made against these applicants which suggests the hypersensitive temperament of the deceased which led her to take such an extreme step of suicide as allegedly reprimanded by the applicants, who were the Teachers, otherwise would not ordinarily induce a similarly circumstanced student to commit suicide.

21. In absence of any material on record even, *prima facie*, in the F.I.R. or statement of the complainant, pointing out any such circumstances showing any such act or intention that the applicants intended to bring about the suicide of their student, it would be absurd to even think that the applicants have any intention to place the deceased in such circumstances that there was no option available to her except to commit suicide.

22. In the absence of any specific allegation and material of definite nature, not imaginary or inferential one, it would be travesty of justice, to ask the applicants to face the criminal trial.

23. For the aforesaid reasons, the applications are allowed. We hereby quash and set aside F.I.R. No.0061/2024 registered by non-applicant No.1 for the offence punishable under Section 306 read with Section 34 of Indian Penal Code and Section 17 of Right of Children to Free and Compulsory Education Act, 2009 against the present applicants.

(MRS.VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)