



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH : NAGPUR
CRIMINAL REVISION APPLICATION NO.108 OF 2024**

- 1) Pankaj S/o Nanaji Khadse,
Aged 36 years, Occ. Service, R/o Plot
no. 704 D Wing, Jayant Nagri no.2,
Harihar nagar, Besa, Nagpur
- 2) Smt. Mayawati W/o Nanaji Khadse,
Aged 66 years, Occ. Housewife, R/o
Kashinagar, near Bodh Vihar, Shatabdi
chowk, Post. Ajni, Nagpur
- 3) Sau. Mangla W/o Siddharth Gambhir,
Aged 45 years, Occ. Service
- 4) Sidharth S/o Vishwanath Gambhir,
Aged 54 years, Occ. Service,
Both 3 & 4 R/o Plot no. 201, Shivneri
Apartment, Chandika nagar no.1, Besa
road, Nagpur

.... Applicant(s)

// VERSUS //

- 1) The State of Maharashtra,
Through Police Station, Beltarodi,
Nagpur.

.... Non-applicant(s)

.....
Ms. Surabhi Naidu (Godbole) along with Mr Prakash Naidu, Advocates for the applicants
Ms. D.I. Charlewar, APP for the non-applicant/State
.....

CORAM : SANDIPKUMAR C. MORE, J.

DATE OF RESERVING THE JUDGMENT : 09.12.2024

DATE OF PRONOUNCEMENT OF THE JUDGMENT : 10.12.2024

JUDGMENT :

1. Feeling dis-satisfied with the order below Exh.3 dated 13.06.2024 passed by the learned Assistant Sessions Judge, Nagpur (herein after referred to as 'the learned trial Court') in Sessions Case No.39 of 2023, the applicants-accused have preferred this Revision Application. Under the impugned order, the learned trial Court has rejected the application filed by the present applicants for discharging them from the offence under Section 306 read with Section 34 of the Indian Penal Code (IPC).

2. The learned counsel for the applicants submits that the learned trial Court has definitely erred in rejecting the discharge application of the applicants-accused. According to her, the learned trial Court has ignored the aspect of abetment required for constituting the offence under Section 306 of the IPC and also wrongly considered the presumption under Section 113-A of the Indian Evidence Act to arrive at a conclusion that the applicants had subjected the deceased to cruelty. She pointed out that in the WhatsApp message sent to her aunt, the deceased had not disclosed

any ill-treatment caused to her by the applicant No.1-Pankaj. She pointed out that the suicide in the instant case was an independent act of the deceased and therefore, the learned trial Court, in absence of any material, should have discharged the applicants. In support of her submissions, she has relied on the following judgments of the Hon'ble Apex Court :

- (i) *Kashibai & Ors. Vs. The State of Karnataka*, reported in 2023 LiveLaw ; 2023 (2) HLR 775 ;
- (ii) *Ramesh Kumar Vs. State of Chattisgarh*, reported in 2001 AIR SC 3837 ;
- (iii) *Swamy Prahaladdas Vs. State of M.P. and another*, reported in 1995 SCC (Cri) 943 ; and
- (iv) *Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh*, 2002 AIR SC 1998.

3. On the contrary, the learned APP strongly opposes the submissions made on behalf of the applicants. She pointed out certain documents on record, which are the part of the charge-sheet and submits that on the basis of the said documents, it can be inferred that just before committing suicide, the deceased called her

aunt and stated about her ill-treatment. The learned APP further submitted that there are supporting CDR in respect of the calls made by the deceased to her aunt as aforesaid. As such, there is *prima facie* material against the applicants in respect of the allegations made in the FIR lodged by the father of the deceased. Thus, she prayed for dismissal of the application.

4. Heard the rival submissions and also perused the documents on record.

5. It is significant to note that the present applicant No.1 is the husband of deceased Ritu, whereas, the other applicants are her in-laws. Further the incident of committing suicide by Ritu is of 06.10.2021 and her father has lodged immediate report on 07.10.2021. Though the WhatsApp message sent to her aunt by the deceased indicates that she was in love with her husband, but the message further states that she was having ill-treatment at the hands of the other applicants. The said message also indicates that her husband had refused to stand by her in respect of the said ill-treatment. It is extremely important to note that the police during

the investigation had recorded the statement of aunt of the deceased i.e. Deepti Prakashkumar Bengani, who has stated that she received a phone call from Ritu on the day of incident at about 11 to 11.15 a.m. and at that time, Ritu had told her that the applicant No.1-Pankaj was asking her to leave him. The said statement is well supported by CDR collected by the Police during the investigation. It is to be noted here that just after 5 to 10 minutes of those phone calls, Ritu committed suicide by jumping from 7th floor. Thus, there is *prima facie* material against the applicants in respect of commission of suicide by Ritu.

6. The judgments relied upon by the learned counsel for the applicants are in respect of the ingredients of Section 306 of the IPC and the interpretation of a word 'abetment' under Section 107 of the IPC. However, the judgments in the case of ***Kashibai*** (supra) and ***Ramesh Kumar*** (supra) are in fact in respect of the final outcome of a trial under Section 306 of the IPC and therefore, the same cannot be considered here for discharge application. Further the judgment in the case of ***Sanju @ Sanjay Singh Sengar*** (supra)

appears to be in respect of quashing of FIR under Section 482 of the CrPC. However, in the present case, no such quashment is sought. Further, the judgment in the case of *Swamy Prahaladdas* (supra) is in respect of utterance of certain words leading to the commission of suicide, but the facts of the said case are different from the present case.

7. In the instant case, there is *prima facie* material against the applicants which definitely needs trial to ascertain, whether the ingredients of Section 306 of the IPC are established against the applicants. As such, the aforesaid judgments relied upon by the applicants are not helpful to the applicants, especially, at this juncture.

8. Therefore, considering all these aspects, no perversity can be seen in the impugned order passed by the learned trial Court. As such, the Criminal Revision Application stands **dismissed** and disposed of accordingly.

SANDIPKUMAR C. MORE, J