



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

CRIMINAL APPLICATION (APL) NO.865/2020

Aarti @ Tejasvi D/o Vishvasrao Gode
Aged about 21 years, Occ: Education,
R/o Rohankheda, Post Kangaon,
Tahsil Hinganghat, District Wardha. ... Applicant

- Versus -

State of Maharashtra, through
its Police Station Officer,
Police Station Hinganghat, Dist.
Wardha. ... Non-applicant

Mr. S. D. Chopde, Advocate for the applicant.
Ms. Kalyani Marpakwar, A.P.P. for the non-applicant.

CORAM: SMT. VIBHA KANKANWADI & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 5.7.2024.

JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard Mr. S. D. Chopde, learned Advocate for the
applicant and Ms. Kalyani Marpakwar, learned A.P.P. for the
non-applicant. **Rule.**

2. By this application, the applicant is seeking to quash the First Information Report bearing Crime No.0573/2020 registered with Hinganghat Police Station, Wardha for the offence punishable under Section 306 of Indian Penal Code on account of absence of *prima facie* material to constitute the offence of abetment to commit suicide. Particularly, it is submitted that even if the prosecution case is accepted at its face value, it does not make out the alleged offence against the present applicant.

3. Facts leading to the filing of this application are that one Mrs. Kunda Vishal Dahake, aged about 20 years, had committed suicide on 18.9.2020 by hanging. The applicant is the cousin sister of husband of deceased. She is about 21 years pursuing B.A. final year. It is the prosecution case that the applicant defamed the deceased on the point that the deceased allegedly had pre-marital affair with one Rahul Gawande, R/o Kutki, Tahsil Hinganghat and she continued it after marriage and that the deceased had run away with the said person. Applicant

tried to give her understanding because of which feeling defamed she has committed suicide.

4. As suicide note was found in the clothes of deceased mentioning the name of applicant that being annoyed with her she has committed suicide and police registered crime against this applicant.

5. Learned Advocate appearing for the applicant submitted that even if the F.I.R. and the material available on record are taken into consideration, the ingredients to constitute an offence punishable under Section 306 of Indian Penal Code is not made out against the present applicant and, therefore, FIR is liable to be quashed and set aside.

6. It is submitted by the learned Advocate that the intention of the applicant was only to pursue the deceased not to keep the extra-marital affair but she was not listening.

7. On the other hand, learned A.P.P. contends that the statements of relatives and Rahul Gawande show that the

deceased had love affair with said Rahul Gawande and their relationship continued even after the marriage of deceased. Said Rahul Gawande had told this fact to the applicant. The applicant had given understanding to both Rahul and the deceased as Kunda was married. Hence Rahul blocked the phone number of deceased. Even then the deceased had called Rahul from another phone and warned him that if he doesn't speak to her she would commit suicide. Said Rahul was scared by that threat. The suicide note specifically mentions the name of applicant and *prima facie* case is made out against the applicant. Hence prayed to reject the application.

8. Initially the father of the deceased had lodged the complaint against the husband and in-laws of the deceased and applicant who is cousin sister of the husband of deceased. During panchanama a chit was found and the deceased mentioned therein the name of this applicant stating that only because of this applicant she has committed suicide and her husband and parents are not responsible for her death. On the basis of suicide note the

police has registered the crime under Section 306 of Indian Penal Code against this applicant only.

9. The marriage of deceased was performed on 16.5.2020 with cousin brother of this applicant. Initially the father of the deceased had lodged the complaint against the family members and in-laws of the deceased suspecting her death as murder. The father of deceased - Ramchandra Umate had lodged the complaint stating that when the deceased had committed the suicide the door of the room was locked from outside and, therefore, she has been killed by her husband, mother-in-law and the present applicant. Hinganghat police station made enquiry on the allegations made by the father of the deceased wherein it is found that the door of the said room can locked form inside and outside. Due to rainy season the door swelled up. The non-applicant police station has also recorded the statement of the neighbours wherein they have stated that there was no quarrel between the deceased and her in-laws and there was no ill-treatment to the deceased. The statement of one Rahul

Gawande who is resident of Kutki i.e. the maternal village of deceased is also recorded. From the statement of said Rahul Gawande it is disclosed that the deceased and Rahul were having love affairs since five years and even after the marriage they were in contact. Applicant came to know about it and she advised both of them to end said relationship. She has requested said Rahul Gawande on phone and asked him not to continue the relationship with deceased. Therefore, Rahul had blocked the mobile number of deceased but deceased again went to her maternal house and called Rahul from another mobile and she told him that if he did not talk with her she will commit suicide. Rahul told it to the applicant. From the statement of said Rahul Gawande the frustration and involvement of deceased with Rahul can be seen.

10. The police after investigation has found that in suicide note she has mentioned the name of this applicant. The crime is registered against the present applicant only. The suicide note is produced on record. It shows that the deceased has stated

about applicant as the applicant defamed her and as she was annoyed with that, she had committed suicide. Deceased has stated in suicide note that the applicant had informed that she had run away with said Rahul, this is the only allegation against this applicant. Husband of deceased has stated that on the date of incident the deceased had left her house without informing the members of the family. All the persons thereafter took search. The husband of deceased had also informed about it to her parents. Thereafter she was found in one temple which was about four kilometres away from Hinganghat. He brought her back at about 1 p.m. On the same day the deceased had committed suicide. On the basis of the suicide note the crime is registered.

11. Considering the material placed on record it is clear that the offence under Section 306 of Indian Penal Code is not made out against the present applicant. Even after marriage deceased had continued her affair and when her ex boy friend blocked her mobile number she told him that she will commit

suicide. It clearly shows that she was frustrated and immediately after four months of her marriage she has committed suicide. Though suicide note is found the contents in it does not attract the essential ingredients of offence under Section 306 of Indian Penal Code. There is no abetment at the hands of applicant. Deceased got annoyed as the applicant had given understanding to her not to continue relations with her earlier boy friend. Applicant is cousin sister of the husband of deceased. She was not even staying with them. The only act done by her is she has given advice not to continue the extra-marital affair to the deceased and thereafter she had committed suicide.

12. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would

be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

13. In case of Chitresh Kumar Chopra V/s. State (Govt. of NCT of Delhi) reported in [2009] 16 SCC 605 the Supreme Court has an occasion to delve upon the mental state of the person committing suicide. Endeavour was made to unfold the mental trauma of such person. It is apt to note the relevant observations made in that regard, which read as below.

“20. In the background of this legal position, we may advert to the case at hand. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different

individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. Each individual's suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, which may either be an attempt for self-protection or an escapism from intolerable self."

14. The suicidability pattern of each person is different from other and each person has his own idea of self esteem and self respect which depends upon the mental capacity and level of tolerance, courage to face the reality.

15. The entire allegations nowhere suggest any positive act on the part of the applicant except her advice. There is nothing on record to show that the applicant abetted to commit suicide. *Prima facie* it is evident that even after her marriage the deceased continued talking with her ex boy friend and she has given threat of committing suicide if he stopped talking with her

and her ex boy friend has given the statement to that effect. The frustration of the deceased was different than the given in chit.

16. Considering the judicial pronouncements as stated aforesaid and keeping in mind the facts of the present case and having regard to the parameters laid down by the Hon'ble Supreme Court in case of State of Haryana V/s. Bhajan Lal reported in **AIR 1992 SC 604** we do not find any impediment in quashing the F.I.R. against the present applicant. *Mens rea* necessary to constitute the offence is missing in the case in hand. Apart from the allegations made in the F.I.R. there is nothing incriminating against this applicant. The contents of the F.I.R. also does not disclose any abetment.

17. In view of the above, we are inclined to invoke our inherent powers.

(i) We hereby quash and set aside the F.I.R. in Crime No.0573/2020 registered by non-applicant for the offence punishable under Section 306 of Indian Penal Code against the present applicant.

(ii) The application stands disposed of in the above terms.

(MRS.VRUSHALI V. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)