



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

CRIMINAL APPLICATION (BA) NO. 1137 OF 2024

Prashant s/o Vishwanath Bhoyar and others **Vs** State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.A. Deo, counsel for applicants.

Ms. T.H. Udeshi, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 06/12/2024.

1. The applicant Nos. 1 to 4 came to be arrested on 07/10/2024 in connection with Crime No. 304/2024 registered with Police Station Armori, Tahsil Armori, District Gadchiroli for the offence punishable under Sections 351(2), 333, 3(5), 115(2) of the Bhartiya Nyaya Sanhita 2023.

2. The crime is registered on the basis of the report lodged by the victim herself, on an allegation that on 03/10/2024 there was a holiday on the occasion of Navratri; therefore, she and her sister went at home. At about 1.00 p.m. three women entered her house, and there was an altercation of words. They have disclosed their identity as the wife of one Prashant Muley, sister-in-law and mother-in-law, and during that altercation, they have slapped her, and therefore she consumed poison and attempted to commit suicide. On the basis of the said report, police have registered the crime against the present

applicant. During treatment she succumbed to the death, and therefore, Section 108 was added.

3. Heard learned counsel for the applicants, who submitted that considering the allegation as it is, no offence is made out to show that it was the present applicants who have abetted her to commit suicide. He submitted that there should be some material to show that the abetment was either by way of instigation or aiding. He submitted that now the investigation is already completed and charge-sheet is filed. In support his contention, he placed on record the recent judgment passed by the Hon'ble Apex court in the case of *[Nipun Aneja and others Vs State of Uttar Pradesh in Criminal Appeal No. 654/2017 decided on 03/10/2024]*, wherein the Hon'ble Apex Court has dealt with the aspect of the abetment to commit suicide and the ingredients of the offence. He submitted that if the observation of the Hon'ble Apex Court is considered when to constitute an offence 306 I.P.C. i.e. abetment of suicide would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. As the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories.

4. He submitted that the Hon'ble Apex Court further considered that where the deceased is having

sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity.

5. He further submitted that while considering the same, it is further held by the Hon'ble Apex Court that there should be cogent evidence or material to show that there was an abetment at the hands of the present applicants, and no option was there to the deceased but to commit suicide, and in view of that, she committed suicide. Thus, those ingredients are absent in the present case. In view of that, no offence is made out. Now the investigation is already completed, and the charge-sheet is already filed, further incarceration is not required. In view of that, the application deserves to be allowed.

6. Learned APP raised strong objection with the contention that the recitals of the FIR itself show that the victim was assaulted by the present applicants, and she felt insulted, and therefore, she committed suicide by consuming the poison. It was her immediate action as soon as she was slapped by the present applicants. Considering the same, there was an instigation by the present applicants to the deceased to commit suicide. Thus, considering the same, a prima facie case is made out against the present applicants, and therefore, the application deserves to be rejected.

7. After hearing both sides and on perusal of the recitals of the FIR and other investigation papers, it reveals

that as per the allegation, three ladies only entered in the house. Thus, the statement of the deceased, which was recorded in the initial stage, shows that the applicant No. 1 was not present at the time of the incident. As per the allegation, as she was slapped, she felt insulted, and therefore, she committed suicide. Whether such type of act will attract the abetment at the hands of the present applicants is to be taken into consideration. This aspect is dealt by this Court as well as by the Hon'ble Apex Court in various decisions.

8. As far as the essential ingredients of the offence under Section 306 of IPC and (new section 108 of the BNS) is concerned, (i) the abetment (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied.

9. Furthermore, the Hon'ble Apex Court in the case of *Ude Singh & Others v. State of Haryana reported in (2019) 17 SCC 301*, the Hon'ble Apex Court in para No.16.1 is held that ;

“16.1. 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 decisions 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 IPC. If the accused plays an active role in tarnishing the 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 more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased”.

10. In the light of the observation, the allegations are considered, and the incident is narrated by the deceased

at the time of lodging the FIR. At this stage, whether there was an abetment or not or there was an intentional act or instigation on the part of the present applicants not to be evaluated, it is a matter of evidence. At this stage, considering the investigation is completed and charge-sheet is filed, further incarceration of the present applicants is not required. In view of the above, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The application is allowed.
- b] The applicants ***(1) Prashant s/o Vishwanath Bhoyar (2) Sou. Shilpa Prashant Bhoyar (3) Sou. Aruna Prafulla Bhoyar (4) Smt. Sindhu Vishwanath Bhoyar***, are released on bail, in connection with Crime No. 304/2024 registered with Police Station Armori, Tahsil Armori, District Gadchiroli for the offence punishable under Sections 351(2), 333, 3(5), 115(2) of the Bhartiya Nyaya Sanhita 2023, on executing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.
- c] The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case either personally or by way of electronic media.

- d] The applicants shall **attend** the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]