



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 CRIMINAL APPLICATION NO.146 OF 2024

- 1 Subhash Nagnath Sonwane,
Age 38 yrs., Occ. Service as Teacher,
R/o Somanwadi, Tq. Ambejogai,
Dist. Beed.
- 2 Sangita Murlidhar Lahane,
Age 55 yrs., Occ. Household,
R/o Makegaon, Tq. Renapur,
Dist. Latur.

... Applicants

... Versus ...

- 1 The State of Maharashtra
Through Police Inspector,
Police Station, Bardapur,
Tq. Ambejogai, Dist. Beed.
- 2 Komal Bharat Sonwane,
Age 30 yrs., Occ. Household,
R/o Somanwadi, Tq. Ambejogai,
Dist. Beed.

... Respondents

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Mr. V.P. Latange, Advocate h/f Mr. B.S. Shinde, Advocate for applicants

Mr. V.K. Kotecha, APP for respondent No.1

Mr. D.R. Jethliya, Advocate for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI &
MANJUSHA DESHPANDE, JJ.

DATE : 16th APRIL, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed initially for quashment of First Information Report vide Crime No.179/2023 dated 03.11.2023 registered with Police Station, Bardapur, Tq. Ambejogai, Dist. Beed and later on by way of amendment for quashing proceedings in charge sheet No.30/2024 dated 01.04.2024 pending before learned Judicial Magistrate First Class, Ambejogai, Dist. Beed, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. V.P. Latange holding for learned Advocate Mr. B.S. Shinde for applicants, learned APP Mr. V.K. Kotecha for respondent No.1 and learned Advocate Mr. D.R. Jethliya for respondent No.2.

3 Learned Advocate appearing for applicants has taken us through the entire charge sheet including First Information Report. He submits that even if we consider the contents of First Information Report as it is; yet, the ingredients of offence under Section 306 of the Indian Penal Code are not made out. Applicant No.1 is serving as Teacher and applicant No.2 is his maternal aunt. Informant has stated that her husband, who was employed as Conductor in S.T. Bus Depot, Ahmedpur, was owner of 46 R land from Gat Nos.307 and 308 situated at village Somanwadi, Tq. Ambejogai, Dist. Beed.

She alleges that applicant No.1, who is the Teacher, is giving money to people on interest, thereby he is doing money lending business. He purchases the lands belonging to people in the name of his relatives. Her husband had taken loan of Rs.1,26,000/- from applicant No.1 and 30 G land from Gat No.307 was shown to be purchased in the name of father of applicant No.1. After the said amount was repaid, that is, with interest Rs.2,00,000/-, then applicant No.1 had executed the reconveyance deed. Again her husband had demanded loan after some time as his salary was not sufficient to mitigate the household expenses and mitigating the loan already taken and, therefore, by executing the sale deed in favour of applicant No.2 in respect of 30 R land from Gat No.307 amount of Rs.1,43,000/- was taken by husband, however, this transaction dated 22.01.2020 was not told by husband of informant to her. She came to know it from her cousin brother-in-law Gulab Sonwane. Informant had then met applicant No.1 and told him that he should return the land to them as she would pay him the amount which has been taken by her husband. At that time, applicant No.1 flatly refused stating that it will not be possible for her to return the amount. The informant had then given an application to Tahsildar, Talathi and also lodged a suit for partition in Ambejogai Court, to which she herself and her daughter are the plaintiffs. She states that she possesses the land and cultivates it. The informant and her husband were demanding since 2021 to both applicants that they should

return the land by accepting the amount, but it was refused by saying that with interest the amount has reached to Rs.7,55,000/-. Husband of informant was stating that applicant No.1 has cheated him and he will not return the agricultural land. Because of the same he was under mental tension and used to say that he feels to commit suicide, but the informant used to give advice to him. Informant states that her husband returned from duty around 8.00 p.m. on 25.10.2023 and told that he would go to applicant No.1 and ask him whether he would be returning the land ? Her husband went in annoyance towards house of applicant No.1. Informant followed him. When asked by her husband, applicant No.1 refused to return the land and applicant No.1 also stated that even if her husband committed suicide, the land will not be returned. He would take the remaining land also. Husband of informant returned towards house in angry mood and after starting his motorcycle, which was parked in front of house, shouted that he would commit suicide and went. Though informant tried to stop him, he went. He had also told that his tomb should be constructed in front of the house of applicant No.1. Around 10.00 p.m. he committed suicide by giving dash of the motorcycle to wall of Cultural Hall at Nirpana.

4 Learned Advocate for applicants submits that applicant No.2 has not been assigned any role. The document might be in her name, but she has

not instigated or abetted the commission of suicide by deceased. Refusal to reconvey the land cannot be taken as abetment, as there was no active role. In fact, when, as the story has been told in First Information Report as it is since 2021 the informant and her husband were demanding the reconveyance and it was refused, no legal action has been taken by deceased against applicants stating that it is a money lending transaction. Learned Advocate for applicants also points out the plaint in Regular Civil Suit No.408/2021 filed by informant before learned Civil Judge Junior Division, Ambejogai, wherein it is stated that the deceased husband had treated her with cruelty and since 24.10.2021 by demanding amount of Rs.5,00,000/- she was driven out of the house and, therefore, she herself and her daughter are residing at Gangakhed with her parents. She has levelled allegations against her deceased husband by saying that under the influence of liquor he has sold the said land. When the ingredients are not proved, it would be unjust to ask the applicants to face the trial.

5 Per contra, learned APP as well as learned Advocate for respondent No.2 strongly opposed the application and submitted that when deceased had committed suicide the reason will have to be considered. The earlier transaction went smoothly in respect of 46 R land, for which the sale deed was given in the name of father of applicant No.1. But after the amount

was returned, it was reconveyed, but thereafter, when again the amount was given and sale deed dated 22.01.2020 was got done in the name of applicant No.1, thereafter applicant No.1 refused to return the said land. It is a money lending transaction and in spite of so many requests when the land was not returned, deceased has committed suicide. There are statements of witnesses under Section 161 of the Code of Criminal Procedure, which show that to them also deceased had expressed that he feels like committing suicide because of the harassment by applicants. Let there be trial.

6 Before turning to the facts, we would like to consider the legal point involved in the matter, that is, what are the ingredients to be even *prima facie* shown by prosecution in such matters and for that purpose we would like to rely on the decision in **Dilip Ramrao Shirasao and others vs. State of Maharashtra and another** [2016 ALL MR (Cri) 4328], **Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh** [2002 Cri.L.J. 2796], **Madan Mohan Singh vs. State of Gujrat and another** [(2010) 8 SCC 628], **S.S. Chheena vs. Vijay Kumar Mahajan** [2010 All MR (Cri) 3298 (S.C.)] and **R. Shashirekha vs. State of Karnataka and others** [2025 INSC 402]. Taking into consideration the ratio laid down in all these authorities and the fact in the present case, definitely, ingredients of any of the offences under which charge sheet is filed are not at all attracted. Further, it has been observed in

one of the recent Judgments in **Mahendra Awase vs. The State of Madhya Pradesh** [2025 INSC 76] that merely for the satisfaction of informant Investigating Officer should not file charge sheet against accused, arrayed in offence under Section 306 of the Indian Penal Code. In **Amalendu Pal @ Jhantu vs. State of West Bengal** [(2010) 1 SCC 707] similar view that of **M. Mohan** (supra) is taken, wherein it was held that -

“In a case of abetment of suicide, there must be proof of direct or indirect act(s) of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the deceased to commit suicide, conviction in terms of Section 306 of the Indian Penal Code would not be sustainable.”

7 The inquest panchnama that was executed on 26.10.2023 between 9.30 a.m. to 10.00 a.m. would show that it was the death in accident. The form, that is, given by Police Officer to the Medical Officer at the time of conducting Postmortem states that the deceased was going from Pangaon to Somanwadi on motorcycle around 21.00 hours on 25.10.2023 and met with an accident on the curve of village Nirpana. The Postmortem Report gives cause of death as – “Death due to hemorrhagic shock due to craniofacial injuries”. Thus, unless there would have been an eye witness, it cannot be stated that it was the suicide, only on the basis of Postmortem

Report. Statement of one Netaji Ramrao Jadhav under Section 161 of the Code of Criminal Procedure shows that he is from Nirpana village. He states that his room is near Cultural Hall. The shape of the road at that place is 'L' shape. Around 10.00 p.m. he and one Parmeshwar Jadhav were in the room and they heard big noise of vehicle, therefore, they went outside and found that a motorcycle bearing No.MH 44-AA-1970 had dashed to the Eastern wall of Cultural Hall and a person was lying in serious injured condition. Similar is the statement of witness Parmeshwar Jadhav. Therefore, nobody has seen deceased giving intentional dash to the wall of the Cultural Hall. In the spot panchnama it is tried to be stated that there were 3-4 steps and motorcycle was taken on the plain portion after those steps and then it is stated that by giving continuous dash the suicide has been committed. But the written part of the spot panchnama does not support it. It is stated that in front of the Hall there are two cement benches kept for sitting, out of which one was damaged. It is then stated that road was about 8 feet in height from the Hall. The possibility of accident cannot be ruled out, taking into consideration these documents on the face of it. Therefore, these documents do not support that deceased might have committed suicide. Another fact to be noted is that applicants have filed a photo copy of an application which has been given by informant to Taluka Agriculture Officer, Ambejogai stating that her husband has expired in road accident and, therefore, she should be given

compensation under the scheme 'Shetkari Apghat Vima Yojana'. The application in format has also been given, which states that the accident occurred on motorcycle. When there is no clear evidence even *prima facie* regarding suicide, the basic ingredients of Section 306 of the Indian Penal Code are not made out.

8 Even if it is taken that deceased Bharat had committed suicide, then it is required to be considered as to whether the basic ingredients are *prima facie* made out or not. As aforesaid, for proving offence under Section 306 of the Indian Penal Code, we must consider offence under Section 107 of the Indian Penal Code. It requires some active act on the part of deceased. Though the informant has tried to say that when her husband had gone to applicant No.1 on 25.10.2023 and applicant No.1 after refusing to return the agricultural land also told that he would purchase the rest of the land, even if he commits suicide and he can do whatever he wants, we would like to rely on **Swamy Prahaladdas v. State of M.P. & Another** [1995 Supp. (3) SCC 438], wherein the appellant therein was charged for an offence under Section 306 of the Indian Penal Code on the ground that the appellant during the quarrel is said to have remarked the deceased 'to go and die'. The Hon'ble Supreme Court observed that mere words uttered by the accused to the deceased 'to go and die' were not even *prima facie* enough to instigate the deceased to

commit suicide.

9 Another fact is that if the informant and her husband were demanding the reconveyance of the land since 2021 the suicide has been committed on 25.10.2023. Though it is tried to be stated that there was continuous refusal by applicant No.1 to reconvey the land, the question is, why the deceased had not filed any suit for reconveyance ? That was the only legal recourse that was available to the deceased. Without taking legal recourse if the deceased was saying that he feels that he should commit suicide, then it cannot be stated that there was any connection in between two incidences. The ingredients of offence are not made out and, therefore, it would be an abuse of process of law if the applicants are asked to face the trial. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Sessions Case No.40/2024 pending before Additional Sessions Judge, Ambejogai, Dist. Beed arising out of First Information Report vide Crime No.179/2023 dated 03.11.2023 registered with Police Station, Bardapur, Tq. Ambejogai, Dist. Beed, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code,

1860, stands quashed and set aside as against applicants viz. 1) **Subhash Nagnath Sonwane** and 2) **Sangita Murlidhar Lahane**.

(MANJUSHA DESHPANDE, J.)

(SMT. VIBHA KANKANWADI, J.)

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