



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.312 OF 2024

- 1) Ashrubai W/o Gyanaji Phad,
(Aasarabai Gnyanoba Phad is
mentioned in FIR),
Age-69 years, Occu:Household,
- 2) Jyoti D/o Gyanoji Phad,
(Gogi Kondabai is mentioned in FIR),
Age-33 years, Occu:Household,
- 3) Dashrath S/o Gnyanaji Phad,
(Dashrath Gnyanoba Phad is
mentioned in the FIR),
Age-23 years, Occu:Labour,

All R/o-Dhar, Post-Satla,
Taluka and District-Parbhani,

- 4) Saraswati W/o Rameshrao Bhudhwant,
Age-29 years, Occu:Household,
R/o-Rameshwar Nagar, Parbhani,
Taluka and District-Parbhani.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through the Police Station Officer,
Police Station, Nanalpeth,
Parbhani, Taluka and District-Parbhani,
- 2) Narmadabai W/o Babanrao Budhwant,
Age-55 years, Occu:Household,
R/o- Rameshwar Nagar, Parbhani,
Taluka and District-Parbhani.

...RESPONDENTS

...
Mr. Mahesh P. Kale Advocate for Applicants.
Mr. V.K. Kotecha, A.P.P. for Respondent No.1.
Mr. G.B. Patunkar Advocate for Respondent No.2 (appointed
through Legal Aid).

...
**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 10th MARCH, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashment of the First Information Report (for short "the FIR") vide Crime No. 523 of 2023 registered with Police Station Nanalpeth, Parbhani, District-Parbhani on 13th December 2023 for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

2. Heard learned Advocate Mr. Kale for the applicants, learned APP Mr. Kotecha for respondent No.1 and learned Advocate Mr. Patunkar for respondent No.2, appointed through Legal Aid.

3. The fact which is not in dispute, is that applicant No.1's daughter Saraswati i.e. applicant No.4 is the daughter-in-law of the informant. Applicant No.4 got married to Ramesh – son of

the informant and they are blessed with three children. Ramesh was plying Auto Rickshaw. Ramesh committed suicide by hanging himself, around 5.00 a.m., on 13th December 2023, to the tree in front of his house.

4. Learned Advocate for the applicants, after taking us through the FIR, submits that on the reading of the FIR as it is, it will not attract the ingredients of the offence. No specific act has been attributed to each of the applicant. It is stated that applicant No.4 had quarrels with her husband but the informant herself says that it was on account of trifle matters. The informant has stated that deceased Ramesh had taken amount of Rs.40,000/- from applicant No.1 and had repaid it after a year, but still applicant No.1 was harassing him for more amount. But the details are not given. It is stated that a suicide note was found on the person of deceased Ramesh wherein it is stated that he has been harassed by mother-in-law, sister-in-law, brother-in-law and wife and therefore, he is ending his life. He had also stated that his mobile as well as mobile of his wife should be checked. The mother-in-law used to give threat of Rs.10,00,000/-. Even this chit does not state when any act was done and for what purpose the amount of Rs.10,00,000/- was

demanded. Therefore, when the offence is not made out, it would be unjust to ask the applicants to face the further proceedings.

5. Learned APP as well as learned Advocate for respondent No.2, strongly opposed the application and submitted that the matter is still under investigation. Let there be complete investigation and then it can be arrived at, as to whether the ingredients of offence are attracted or not.

6. We have perused the police papers made available regarding the investigation done up till now. We have gone through, especially, the suicide note. In the investigation done up till now, there is absolutely no concrete evidence as to when deceased Ramesh had taken amount of Rs.40,000/- from his mother-in-law. There is no note when he had repaid it. It is then a general statement that has been made that the mother-in-law used to harass Ramesh oftenly on the count of amount. Mere use of the word 'harassment' is not sufficient. What kind of harassment was there, is not explained. If the said harassment was continuous, then what the informant had done in the matter, is a question. The informant says that even her daughter-in-law

i.e. applicant No.4 used to quarrel with deceased Ramesh on trifle grounds and thereby giving harassment. Since the relationship is of husband and wife, there can be usual wear and tear in their marital life. But when it is on the basis of trifle ground, then it can not be said to be harassment. At no place the informant says that because of the behaviour of wife her son was staying separately or applicant No.4 had gone to stay with her mother along with children. The entire FIR shows that applicant No.4 was still residing with the husband, mother-in-law and children.

7. Then the informant says that two days prior to 13th December 2023, she had gone to Manwat for labour work and then she was given a call around 5.00 a.m. on 13th December 2023 by her sister Rukhmina informing about the suicide. Therefore, from Manwat she went back to Rameshwarnagar, Parbhani around 7.00 a.m. and saw the dead body of Ramesh in hanging position. Thereafter people arrived and after taking down the dead body, it was sent to Government Hospital, Parbhani where Ramesh was declared dead. At the time of inquest panchnama, when the clothes of Ramesh were checked, they found the chit. The informant has not stated, even at that

time also as to where applicant No.4 and children were. She has also not stated that thereafter she had made inquiry with her sister Rukhmina, as to how she came to know about the suicide and where she stays, whether she has seen the applicants quarreling with deceased Ramesh on the earlier night and whether something was happened between them.

8. Perusal of the suicide note also shows that the same is as vague as it is. No specific act is attributed to anybody. Why deceased Ramesh has suggested for checking his mobile and also the mobile of his wife, is a question. The police papers show that the mobiles were checked but there was nothing.

9. In order to prove, even prima facie offence under Section 306 of the Indian Penal Code, we will have to consider Section 107 of the Indian Penal Code, where intentional instigation or positive act with an intention that such person should commit the suicide is must. We would like to rely on the decision of this Court in *Dilip S/o Ramrao Shirasao and others vs. State of Maharashtra and another*, 2016 ALL MR (Cri) 4328, and the decisions of the Hon'ble Apex Court in *Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh*, 2002 Cri.L.J. 2796; *Madan*

Mohan Singh vs. State of Gujrat and another, reported in (2010) 8 SCC 628; S.S. Chheena vs. Vijay Kumar Mahajan reported in 2010 All MR (Cri) 3298 (S.C.), Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi) (2009) 16 SCC 605, Swamy Prahaladdas vs. State of M.P. & Anr. , 1995 Supp. (3) SCC 438, Mahendra Singh vs. State of M.P., 1995 Supp.(3) SCC 731, Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618, State of Kerala and others vs. S. Unnikrishnan Nair and others, reported in AIR 2015 Supreme Court 3351, wherein the law has been made clear.

10. Therefore, taking into consideration the legal position as well as the factual position, we are of the opinion that the prima facie offence is not made out. Therefore, it would be unjust to ask the applicants to face the further proceedings even under investigation and the charge-sheet that may be filed. Even the Hon'ble Supreme Court in *Mahendra Awase vs. State of Madhya Pradesh, 2025 SCC OnLine 107*, has stated that only to satisfy the relatives of the deceased in cases under Section 306 of the Indian Penal Code, the charge-sheet should not be filed.

11. Thus, the case is made out for quashment of the FIR by exercising our powers under Section 482 of the Code of Criminal Procedure. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The First Information Report vide Crime No. 523 of 2023 registered with Police Station Nanalpeth, Parbhani, District-Parbhani on 13th December 2023 for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, and the furthers proceedings, if any, arising out the same, stands quashed and set aside as against applicant Nos. 1 to 4 i.e. - 1) Ashrubai W/o Gyanaji Phad, 2) Jyoti D/o Gyanoji Phad, 3) Dashrath S/o Gnyanaji Phad and 4) Saraswati W/o Ramesh Rao Bhudhwant.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/MAR25