



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 962 OF 2023

1. Uttam s/o Bhaurao Shinde
Age 50 years, Occ. Agril
(husband) (withdrawn)
2. Sindhubai w/o Bhaurao Shinde
Age 84 years, Occ. Housewife
3. Latabai d/o Bhaurao Shinde
Age 51 years, Occ. Housewife

Applicant Nos. 1 to 3 R/o. Tarwade
Tq. Chalisgaon, District Jalgaon

4. Bhikubai w/o Suresh Mandole
Age 56 years, Occ. Housewife
R/o. Balaji Nagar, Kharjai Road
Chalisgaon, Tq. Chalisgaon
District Jalgaon
5. Pralhad s/o Bhaurao Shinde
Age 59 years, Occ. Retired
R/o. Sambhaji Nagar, Kharjai Road
Chalisgaon, Tq. Chalisgaon
District Jalgaon

...Applicants

Versus

1. The State of Maharashtra
Through P.S.I. Chalisgaon
Rural police station
Chalisgaon, district Jalgaon
2. Mahadu s/o Garbad Pimore
Age 67 years, Occ. Agril.
R/o. Nhawe, Tq. Chalisgaon
District Jalgaon

...Respondents

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Mr. P.B. Patil, Advocate for the applicants

Mr. S.A. Gaikwad, A.P.P. for the respondent No.1

Mr. Amol Chate h/f Mr. A.K.Tiwari, advocate for respondent No.2

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

DATED : 25th JULY, 2025

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. Heard learned advocates for the respective parties.
2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing the F.I.R. vide C.R. No. 18 of 2023 registered with Chalisgaon Rural police station, Chalisgaon, District Jalgaon for the offences punishable under Sections 498-A, 306 r.w.34 of the Indian Penal Code, 1860 (for short "the I.P.C."), charge sheet No. 34 of 2025 and the consequential criminal case bearing R.C.C. No. 161 of 2025 pending before the Judicial Magistrate, First Class, Chalisgaon.
3. After hearing for some time, when this court showed disinclination to grant relief to applicant No.1, learned advocate for the applicants, on instructions, seeks leave to withdraw the application of applicant No.1. Leave granted. The application to the extent of applicant No.1 stands dismissed as withdrawn.
4. The informant averred in the report that his niece Rekhabai

Uttam Shinde was married to the son of applicant No. 2. Applicant Nos. 3 and 4 are sisters in law and applicant No.5 is brother in law of Rekhabai. The niece of the informant Rekhabai was married on 28.2.1996. She begot two daughters Ashwini and Apekshya and son Jayesh. The two daughters are married. Rekhabai was residing separately from her husband near to his house. The husband of Rekhabai, his mother applicant No.2 Sindhubai, sister-in-law Lata alongwith her son Jayesh were residing under one roof separately. Applicant No.4 Bhikubai is residing at Balaji Nagar, Chalisgaon. She used to frequently come to Tarwade. Whenever she used to come there, she was instigating the husband of Rekhabai and therefore, her husband was frequently harassing her. Pralhad applicant No.5 was also insulting Rekhabai. The husband of Rekhabai was having illicit relationship with a woman, aged about 50 years. Rekhabai used to tell that fact to the informant and other family members. Her husband was not even having money to purchase grocery articles. The sister in law of Rekhabai viz. Latabai was frequently insulting her by taunting Rekhabai. Rekhabai used to tell that harassment to her parents and the informant frequently and also to other relatives. The said dispute was settled during the discussion in the family and therefore, the report was not lodged.

5. The informant further averred that his grandson Suraj went

to supply the grocery articles to Rekhabai at Tarwade, Tq. Chalisgaon, district Jalgaon. At that time, Rekhabai made a phone call to the nephew of the informant and told him that her treatment of illness of piles is going on. She demanded money to her husband Uttam but he abused her and said that he will not pay the amount to her for treatment. She further stated that even though her husband, mother in law, sister-in-law were harassing her and they had not taken any action. She also alleged that her father and brother-in-law Pralhad were not addressing said harassment.

6. The informant further averred that on 29.1.2023 at about 5.00 p.m. Bhalchandra Shelar a person from his village made a phone call to the informant and said that they both i.e. the informant and his brother come to the house, as they have to go at Tarwade, Tq. Chalisgaon. Thereafter, the informant, his brother Sahadu and Bhalchandra Shelar immediately went to Tarwade on the motor cycle. They saw that dead body of Rekhabai was floating on the water in a well of Eknath Sakharam Shinde. Thereafter, the dead body was taken out. The post mortem was conducted and the report was lodged on the next day of the incident against the applicants and other accused persons.

7. Learned advocate for the applicants submitted that the applicants were residing separately from the deceased Rekhabai since last 15 years. It is accidental death of Rekhabai. The report in question is not lodged by the parents or brother of Rekhabai even though they are alive but it is lodged by her uncle. In the report vague and general allegations are made. The specific role of the applicants is not stated in the report. The learned advocate for the applicants therefore, prayed to allow the application.

8. Learned A.P.P. for respondent No.1 State and learned advocate for respondent No.2 strongly opposed the application by submitting that deceased Rekhabai committed suicide by jumping into the well due to the cruelty at the hands of the applicants. Though the applicants were residing at different places they used to come and ill-treat the informant and due to that Rekhabai had committed suicide. The applicants cannot be exonerated from the criminal liability under Sections 498-A, 306 r.w.34 of the I.P.C. It is lastly prayed to reject the application.

9. It would be relevant to refer to the law laid down by the Hon'ble Supreme Court in the case of ***Mahendra Awase vs. State of Madhya Pradesh, reported in (2025) 4 SCC 801***, wherein the Hon'ble Supreme Court has held that for establishing offence under

Section 306 of I.P.C. there must be a case of suicide. Further, in the commission of the said offence, the person who allegedly abetted the commission of suicide, must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. It is further held that the act of abetment by the accused must be proved and established by the prosecution.

10. We have perused the charge sheet particularly the report and the statements of the witnesses. The witnesses have made the similar allegations, as have been made by the informant. As per the post mortem report, the cause of death of Rekhabai is due to asphyxia due to drowning. The suicidal death of the deceased is not disputed.

11. Though there are allegations that the applicants were instigating the husband of Rekhabai, those are vague and general in nature, as the same are in absence of active role of the applicants. Further, no specific role of the applicants is stated either by the informant or the witnesses. On the basis of vague and general allegations, the essential ingredients of abetment to commit suicide as contemplated under Section 107 of I.P.C. are not established against the applicants. The ingredients of Sections 107 and 306 of I.P.C. require intentionally aiding, instigating to drive the victim to

commit suicide. Soon before commission of suicide, mere harassment or harsh words, without evidence of direct instigation or active facilitation to commit suicide, are not sufficient. Therefore, though Section 306 of I.P.C. is invoked against the applicants for the offence of abetment to commit suicide on the part of the applicants, there is no such reliable material against the applicants. For the offence punishable under section 306 of I.P.C. the courts meticulously examine the facts and circumstances of each case to determine if the action of the applicants fall under the ambit of Section 306 I.P.C.

12. To establish cruelty as contemplated under Section 498-A of the I.P.C., it is necessary to establish its essential ingredients as defined in it that there was demand for money or dowry, or cruelty that drives the woman to commit suicide or to cause grave injury or danger to her life, limb, or mental or physical health. There is no such material on record to show the overt act of the applicants to establish cruelty caused by them.

13. Considering the law laid down in ***Mahendra Awase vs. State of Madhya Pradesh (supra)*** and the reasons stated above, on such vague and general allegations, compelling the applicants to face the trial, would be an abuse of the process of the court. The case is

made out for exercise of our powers under section 482 of the Cr.P.C. We are therefore, inclined to allow the application, in the interest of justice to prevent the abuse of the process of the Court. Hence, the following order:-

O R D E R

- I. The application stands partly allowed.
- II. The F.I.R. vide C.R. No. 18 of 2023 registered with Chalisgaon Rural police station, Chalisgaon, District Jalgaon for the offences punishable under Sections 498-A, 306 r.w.34 of the I.P.C., charge sheet No. 34 of 2025 and the consequential criminal case bearing R.C.C. No. 161 of 2025 pending before the Judicial Magistrate, First Class, Chalisgaon are quashed and set aside to the extent of applicant Nos.2 to 5.

(SANJAY A. DESHMUKH, J.) (SMT. VIBHA KANKANWADI, J.)

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