



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

37 CRIMINAL APPLICATION NO.1033 OF 2022

- 1 Balasaheb Ramkishan Thorat,
Age 37 yrs., Occ. Agri. & Business,
R/o Saigaon Naka Prashant Nagar,
Ambajogai, Tq. Ambajogai, Dist. Beed.
- 2 Mrs. Sushma w/o Balasaheb Thorat,
Age 32 yrs., Occ. Household,
R/o as above.
- 3 Arun Bhausahab Borade,
Age 45 yrs., Occ. Agri. & Business,
R/o Kallam, Tq. Kallam,
Dist. Osmanabad.
- 4 Anil Vaijanath Gaikwad,
Age 50 yrs., Occ. Service,
R/o Anandgaon Kaij,
Tq. Kaij, Dist. Beed.
- 5 Surekha w/o Anil Gaikwad,
Age 45 yrs., Occ. Household,
R/o as above.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
Through the Police Station, Murud,
Tq. & Dist. Latur.
- 2 Dipak Annasaheb Patil,
Age 63 yrs., Occ. Agri. & Contractor,
R/o Wathwada, Tq. Kallam,
Dist. Osmanabad.

At present residing at Rural Janta Academy,
Murud, Tq. & Dist. Latur.

... **Respondents**

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Mr. S.S. Solanke, Advocate h/f Mr. S.A. Ambad, Advocate for applicants

Mrs. Priya R. Bharaswadkar, APP for respondent No.1

Mr. P.B. Gapat, Advocate for respondent No.2

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

DATE : 27th JANUARY, 2025

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

1 Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 initially for quashing First Information Report vide Crime No.23/2022 dated 31.01.2022 registered with Police Station, Murud, Tq. & Dist. Latur and by way of amendment for quashing Charge Sheet No.96/2022 dated 21.09.2022 pending before learned Judicial Magistrate First Class, Latur, for the offence punishable under Section 306, 498-A, 323, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Present applicants are original accused Nos.5 to 9. It is not in

dispute that informant's daughter Juilee got married to Gajanan Dadasaheb Borade on 25.08.2018. She had taken Post Graduate degree in Photo Journalism from London. It is also not in dispute that after marriage within 1½ month Juilee had gone along with Gajanan to Dresden, Germany where Gajanan was employed. Unfortunately, Juilee committed suicide by hanging on 25.01.2022 in the house of respondent No.2 around 6.00 p.m. First Information Report then came to be lodged on 31.01.2022.

3 Applicant No.1 is maternal uncle, applicant No.2 is maternal aunt, applicant No.3 is paternal uncle and applicant No.5 is sister of Gajanan and applicant No.5 is husband of applicant No.5.

4 Heard learned Advocate Mr. S.S. Solanke holding for learned Advocate Mr. S.A. Ambad for applicants, learned APP Mrs. Priya R. Bharaswadkar for respondent No.1 and learned Advocate Mr. P.B. Gapat for respondent No.2. In order to cut short, it can be said that they have argued in support of their respective contentions.

5 Perusal of First Information Report would show that informant has contended that he had spent about Rs.20 lakhs on the marriage of Juilee. He had also given material worth Rs.16 lakhs to Gajanan as Juilee was supposed to do the business in Photo Journalism. When Juilee was residing

at her matrimonial home at Gotegaon, all the accused persons were harassing her by giving taunting that she is unable to do any work. It was mental and physical torture and then they were making demand of Rs.40 lakhs for opening a hotel in Germany. Said demand could not be fulfilled due to financial constraints by respondent No.2. After Juilee went to Dresden, Germany, Gajanan used to harass her physically and mentally, under the influence of liquor, by making demand of money for hotel and kept her starving. Juilee came back to India on 18.03.2019 due to said harassment. She resided at her matrimonial home. At that time, informant and his relatives had persuaded that Juilee should not be harassed but still accused persons were making demand of money and harassing her physically and mentally. Juilee used to be under stress at that time. She had then lodged a complaint under the Domestic Violence Act in Aurangabad Court on 19.03.2020 i.e. P.W.D.V.A. Application No.173/2022. In spite of receipt of summons in-laws and others were not remaining present and, therefore, concerned Court had directed that summons be issued on WhatsApp and E-mail. Such E-mail was sent on 10.01.2022 and since then all the accused persons were threatening Juilee, as to why she has filed case against them. She was under mental stress and due to the said harassment she committed suicide by hanging on 25.01.2022.

6 Perusal of charge sheet would show that there are Inquest Panchnama and Postmortem Report, which say that cause of death is asphyxia due to hanging. Now, the question is, as to whether present applicants had instigated the said suicide ? The Investigating Officer has not collected application under the Domestic Violence Act, but copy of same has been produced by present applicants. Perusal of said complaint would show that main allegations are against husband Gajanan and alleged acts were stated to have taken place in Germany. According to her, she came to India on 18.03.2019 when her grandfather expired. She then says that Gajanan was residing with her at her parental home for about three months. Even at that time he used to assault her and then she says that he left her there on 03.05.2019 and thereafter had not tried to contact her. Her parents had gone to Gotegaon and requested that she should be allowed to reside in her matrimonial home, but it was refused and, therefore, since 03.05.2019 she was residing at her parental home. She has also stated that as the accused persons had defamed her, she is residing in Aurangabad. Thus, it can be seen that in First Information Report there is total suppression of fact that since 03.05.2019 Juilee was residing with respondent No.2 (In fact, at the cost of repetition, it can be said that she was residing since 18.03.2019 itself.). The suicide has been committed on 25.01.2022. It has been tried to be painted in First Information Report that when she filed application under the Domestic

Violence Act in Aurangabad Court; yet, she was residing in her matrimonial home. It is then stated that since 10.01.2022 accused persons were giving threats to Juilee as to why she has filed case against them. By which means those threats were given has not been explained. From the contents of First Information Report and statements of witnesses, which are in fact stereotype, it is not explained as to when it was informed to applicants and in-laws that Juilee was residing in Aurangabad. Whether anybody from her family was residing with Juilee is also not explained, so as to have first hand knowledge that these persons were harassing her. When prior to 25.01.2022 Juilee had come to Murud from Aurangabad is also not explained. All those facts were necessary in order to show that there was abetment to commit suicide on the part of accused persons, especially present applicants. Taking into consideration the relationship of applicants and the fact that Juilee was residing only for a month at her matrimonial home, it is hard to believe that applicants would have harassed her. Respondent No.2 has also given the place of resident of applicants and it is definitely not the matrimonial home. When applicants are residing at a different places, there could not have been *mens rea* to subject Juilee to cruelty and also to abet her suicide.

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To prove the offence under Section 306 of the Indian Penal Code we will have to consider Section 109 of the Indian Penal Code. There has to

be *mens rea* on the part of accused persons. 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] and **S.S. Chheena vs. Vijay Kumar Mahajan** [2010 All MR (Cri) 3298 (S.C.)]. 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.

8 Thus, ingredients of none of the offences are transpiring against applicants. It would be unjust to ask them to face trial. Hence, following order.

ORDER

i) Criminal Application stands allowed.

ii) First Information Report vide Crime No.23/2022 dated 31.01.2022 registered with Police Station, Murud, Tq. & Dist. Latur and Charge Sheet No.96/2022 dated 21.09.2022 pending before learned Judicial Magistrate First Class, Latur, and if the Sessions Case is committed to the Court of Session, then such proceedings before the Sessions Court, for the offence punishable under Sections 306, 498-A, 323, 506 read with Section 34 of the Indian Penal Code, 1860 stand quashed and set aside as against applicants viz. 1) **Balasaheb Ramkishan Thorat**, 2) **Mrs. Sushma w/o Balasaheb Thorat**, 3) **Arun Bhausahab Borade**, 4) **Anil Vaijanath Gaikwad** and 5) **Surekha w/o Anil Gaikwad**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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