



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 1205 OF 2023

1. Avinash S/o Balwant Jadhav
Age : 33 years, Occ : Agri.,
R/o Burkulwadi, Tq. Kinwat,
Dist. Nanded.
2. Subhabai W/o Balwant Jadhav
Age : 60 years, Occ : Household,
R/o Burkulwadi, Tq. Kinwat,
Dist. Nanded.
3. Balwant S/o Sakru Jadhav
Age : 65 years, occ : Agri.,
R/o Burkulwadi, Tq. Kinwat,
Dist. Nanded.
4. Pralhad S/o Balwant Jadhav
Age : 38 years, Occ : Agri.,
R/o Burkulwadi, Tq. Kinwat,
Dist. Nanded.
5. Asha @ Kantabai W/o Pralhad Jadhav
Age : 34 years, Occ : Household,
R/o Burkulwadi, Tq. Kinwat,
Dist. Nanded.
6. Sangita W/o Vinod Rathod
Age : 32 years, Occ : Service,
R/o Burkulwadi, Tq. Kinwat,
Dist. Nanded.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
2. Vasant S/o Ramu Rathod
Age : 55 years, Occ : Agri.,
R/o Pangri Tanda,
Tq. Kinwat, Dist. Nanded.

..RESPONDENTS

Advocate for the applicants : Mr. Vikram R. Dhorde
APP for Respondent- State : Mr. G.A. Kulkarni

CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.

DATED : 7th JANUARY, 2025

JUDGMENT (PER ROHIT W. JOSHI, J.) :

. The present criminal application is filed in order to challenge F.I.R. No.70/2022 registered with Islapur Police Station, Dist.Nanded on 02.07.2022, for the offence punishable under Sections 498-A, 306, 506 read with Section 34 of the Indian Penal Code (I.P.C.) as well as Charge-Sheet No.32/2022 and Sessions Case No.4/2023 pending on the file of the learned Additional Sessions Judge, Nanded.

2. Respondent No.2 – informant is father of deceased Priyankabai, who committed suicide on 01.07.2022. The deceased was wife of applicant No.1. Applicant Nos.2 and 3 are mother-in-law and father-in-law respectively of deceased. Applicant No.4 is brother-in-law of the deceased and applicant No.5 is her wife. Applicant No.6 is sister-in-law of the deceased.

3. The marriage of deceased Priyankabai was solemnized with applicant No.1 somewhere around the year 2007. The couple was

blessed with two sons from the marriage. Applicant No.1, his wife deceased Priyankabai and two sons were residing separately from rest of the family members i.e. applicant Nos.2 to 6.

4. The allegation levelled by respondent No.2 in F.I.R. is that applicant No.1 was not doing any work and was addicted to liquor. It is stated that the deceased was sole bread earner of nuclear family of applicant No.1. Respondent No.2 has alleged that in order to meet expenses for his vices, applicant No.1 used to take money from respondent No.2 and often he used to abuse and beat her in order to extract money from her. He alleges that time and again, he and his well wishers had tried to sort out the situation with applicant no.1, but all efforts went in vain. As regards applicant Nos.2 to 6, the allegation levelled is that respondent No.2 along with his relatives had visited the house of applicant Nos.2 to 6 in order to seek their intervention for resolving the issue between applicant No.1 and the deceased, however, applicant Nos.2 to 6 sided with applicant No.1 and levelled some counter allegations against the deceased. Respondent No.2 states that on 01.07.2022 at about 4.00 p.m., he had received a call from Police Patil of Village Burkulwadi informing that his daughter deceased Priyankabai had committed suicide by hanging herself. In this backdrop, he has lodged F.I.R. against the applicants as aforesaid on

02.07.2022 alleging that they were responsible for drastic act of suicide committed by his daughter.

5. After hearing learned counsel Mr. Vikram Dhorde for the applicants and learned APP Mr. G.A.Kulkarni for respondent No.1 and on initial assessment of facts during the course of hearing, we had expressed that we may not be inclined to allow the application qua applicant No.1- husband. On this the learned counsel for the applicants sought instructions and made a oral motion requesting to withdraw the application with respect to applicant No.1. We permitted him to withdraw the application with respect to applicant No.1 and accordingly, the present application stands disposed of with respect to applicant No.1.

6. As regards the case of applicant Nos.2 to 6, applicant Nos.2 and 3 are the parents-in-law of deceased, applicant No.4 is the brother-in-law of the deceased and applicant No.5 is wife of applicant No.4. It is stated in the F.I.R. itself that applicant Nos.2 to 6 were residing separate from applicant No.1 and his nuclear family comprising of deceased and their two children. Likewise, applicant No.6, who is sister-in-law of deceased is married to one Vinod Rathod and she is also residing separate at her matrimonial home. Perusal of the F.I.R. indicates that

there are no allegations against applicant Nos.2 to 6 except a statement that when respondent No.2 – informant and his family members approached applicant Nos.2 to 6 seeking their help and intervention to resolve the matter between applicant No.1 and his deceased wife, they did not extend any co-operation and rather levelled allegations against the deceased herself taking sides with applicant No.1. Respondent No.2 is of the opinion that applicant Nos.2 to 6 did not discharge their responsibilities as members of the family, which ultimately resulted in a drastic action on the part of his daughter in ending her life by committing suicide.

7. Having considered the material on record, which forms a part of the charge-sheet, particularly statements of respondent No.2 and family members as also the contents of F.I.R., we find that no positive overt act is attributed to applicant Nos.2 to 6. All the allegations of harassment and illtreatment are against applicant No.1 alone. Perusal of the record does not demonstrate even shred of material to connect applicant Nos.2 to 6 with the offence alleged. We may refer a judgment of the Division Bench of this Court in the matter of *Nasirhusen Mohiddin Jamadar Vs. State of Maharashtra and Another* reported in **2024 SCC Online Bom 3741**. Referring to several judgments of the Hon'ble Supreme Court on the point as also earlier decisions of

this Court, it is held that in order to make out a case of abetment to commit suicide, the material on record must indicate *mens rea* in the form of clear intention on the part of the accused to commit acts in order to instigate the deceased to commit suicide. It is further held that mere allegation of harassment is not enough to attract Section 306 of IPC. This Court has recently taken a similar view in the matter of ***Uddhav Bhaurao Shinde Vs. The State of Maharashtra & Anr. (Criminal Application No. 1067 of 2023, decided on 09.12.2024)***. It is held in the said judgment that abetment of suicide involves a mental process of the accused instigating a person or intentionally aiding a person to commit suicide. A positive act on the part of the accused indicating instigation or aiding the act of suicide is essential. The act on the part of the accused should be such that the deceased must find himself in a situation where he is left with no option, but to bring an end to his life. The said judgment in ***Uddhav Bhaurao Shinde (supra)*** also refers to several decisions of this Court as well as the Hon'ble Supreme Court of India on the point.

8. For the reasons aforesaid, we are of the considered opinion that the contents of the F.I.R., statements of witnesses and other material gathered during the course of investigation and forming part of charge-sheet are insufficient to make out essential ingredients of

Section 306 of the IPC against applicant Nos.2 to 6.

9. As regards section 498-A of the IPC, there is no allegation with respect to demand of dowry or harassment on that count against applicant Nos.2 to 6. Apart from this, there are no allegations of cruelty on any other count also within the meaning of Section 498-A of the IPC against applicant Nos.2 to 6. Therefore, they can not be prosecuted for the offence under Section 498-A also. Other provision, viz:- Section 506 of the IPC is non-cognizable. We may also note that there is no whisper in the FIR and no shred of evidence in the charge-sheet to invoke Section 34 of the IPC in order to connect applicant Nos.2 to 6 with applicant No.1 qua the allegations against him pertaining to Section 306 and Section 498-A of the IPC.

10 It will, therefore, be unjust to force applicant Nos.2 to 6 to face criminal prosecution for the said offence. In view of the reasons aforesaid, we allow the criminal application with respect to applicant Nos.2 to 6 by passing following order :-

ORDER

- (i) The application stands disposed of with respect of applicant No.1
– Avinash Balwant Jadhav as withdrawn.

(ii) The application stands allowed with respect of the applicant Nos.2 to 6.

(iii) F.I.R. No.70/2022 registered with Islapur Police Station, Dist.Nanded on 02.07.2022, for the offence punishable under Sections 498-A, 306, 506 read with Section 34 of the Indian Penal Code as well as Charge-Sheet No.32/2022 and Sessions Case No.4/2023 pending on the file of the learned Additional Sessions Judge, Nanded are hereby quashed against applicant No.2 - Subhabai W/o Balwant Jadhav, applicant No.3 - Balwant S/o Sakru Jadhav, applicant No.4 - Pralhad S/o Balwant Jadhav, applicant No.5 - Asha @ Kantabai W/o Pralhad Jadhav and applicant No.6 - Sangita W/o Vinod Rathod.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/