



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1234 OF 2023

1. Govind s/o Hanmantrao Kagne
Age 42 years, Occ. Agriculture
and Contractor
R/o. Omsai Sadan, Malegaon Road
Taroda, District Nanded
 2. Anusaya w/o Govind Kagne
Age 40 years, Occ. Household
R/o. Omsai Sadan, Malegaon Road
Taroda, District Nanded
- ...Applicants

Versus

1. The State of Maharashtra
Through Mukhed Police Station,
Nanded.
 2. Shamla w/o Ramakant Kagne
Age 32 years, Occ. Household
R/o. Hibbat, Tq. Mukhed
District Nanded
- ...Respondents

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Mr. N.S. Ghanekar, Advocate for the applicants
Mrs. P.R. Bharaswadkar, A.P.P. for the respondent No.1
Mr. G.D. Kale, Advocate for respondent No.2.
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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 5th MAY, 2025**

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

1. This application has been filed under section 482 of the
Code of Criminal Procedure 1973 (for short the "Cr.P.C.") for

quashing of the First Information Report (for short the "F.I.R.") No. 125 of 2022 registered with Mukhed Police Station, District Nanded for the offence punishable under section 306 r.w. 34 of the Indian Penal Code, 1860 (for short the "I.P.C.") and the proceeding in Sessions Case No. 82 of 2023 pending before learned Sessions Court, Kandhar, camp Mukhed, District Nanded.

2. The respondent No.2-informant is the wife of Ramkant Kagne, son of the applicants. The applicant No. 1 is her brother-in-law and applicant No. 2 is her co-sister-in-law.

3. The informant averred in the report that she is having a son of 9 years and daughter of 7 years. Her husband was contractor of mobile phones tower. Her brother-in-law was having licence of that contract. All the financial transaction were in the name of Govind because he was having the licence of contractor. Both the brothers purchased a house at Nanded and plots at Degloor in the name of applicant No. 1. Two plots were purchased at Hibbat in the name of applicant No. 2. Six acres land was purchased in the name of father-in-law of the informant and 2½ acres of land was purchased in the name of her mother-in-law. There is total 8 acres of land which is not yet partitioned.

4. The informant further averred that on 24.2.2022, Govind filed a suit for partition against his father. The matter was compromised in Lokadalat on 12.3.2022 and the dispute was settled by compromise. At that time, the husband of the informant asked applicant No. 1 as to why he has not filed the suit regarding the house at Nanded and plot at Degloor. On that applicant No. 1 said that after the partition of agricultural land, there will be partition of those plots. They will settle that issue by discussion. The said talk took place in presence of the father-in-law of the informant and one Ranjit Kagne, who hails from the same village. Thereafter, the husband of the informant insisted for that partition. But applicant No. 1 was not responding to him.

5. On 14.4.2022, when a religious function was going on in the village, all the family members i.e. applicant Nos. 1 and 2, the parents-in-law, one Angad Munde were gathered at 4.00 p.m. At that time, husband of the informant demanded the partition of the house and plot. At that time, applicant No. 1 said that he will not give anything to him. The husband of informant can do whatever he wants and started quarreling. The informant and her father-in-law settled the quarrel. Her husband was constant in tension. He was saying that he had worked hard and earned that house and plots and if the plots are not divided and given in partition, instead of living it would

be better to die. The informant convinced him and tried to ease his tension.

6. The informant further averred that on 20.04.2022 her husband went to the agricultural land at about 8.00 a.m. At about 9.30 a.m. the informant's elder sister made a phone call to her and intimated that her husband has sent a video to her that he is committing suicide. Therefore, the informant immediately proceeded to the agricultural land, where her husband had gone. She saw that her husband had committed suicide by hanging himself to Nim tree with the help of a nylon rope. The report was lodged against the applicants on the same day for abetment to commit suicide to her husband in furtherance of their common intention under Section 306 r.w. 34 of I.P.C.

7. Learned advocate for the applicants submitted that the licence of contract was in the name of the applicant No.1. The entire transaction of the said contract was in the name of the applicant No.1 Govind and the deceased, the husband of the informant was noway concerned with the said contract work or the transaction thereof. Even though there was a civil dispute between the parties in respect of partition, that matter was compromised in the Lokadalat. The allegations that the properties are purchased by the applicant No.1

and the deceased are totally false. On the contrary, the applicant No.1 has purchased the said properties by taking loan from his friend Janardhan Shejul. Even applicant No.1 has constructed the house by availing loan for an amount of Rs.58.00 lacs from the State Bank of India, Branch Taroda, District Nanded. Learned advocate further submitted that even for purchasing of the plot at Degloor, the applicant No.1 has availed loan from DHFL. Learned advocate further submitted that the disputed properties were purchased by the applicant No.1 from his own income and therefore, husband of the informant has no share in the said properties. The allegations made by the informant are baseless and vague. He lastly prayed to allow the application.

8. Learned A.P.P. for respondent No.1-State and learned advocate for the respondent No.2-informant submitted that the allegations made against the applicants are serious in nature. Because of the conduct of the applicants i.e. refusing to give share in the joint properties, the husband of the informant has committed suicide by hanging himself. For proving the offence, the applicant will have to face the full-fledged trial. The case is committed to the court of Sessions being Sessions Case No. 82 of 2023 pending before the learned Sessions Court, Kandhar and its trial is going on. Learned advocates lastly prayed to reject the application.

9. We have perused the charge sheet, particularly the report and the statements of the witnesses. On perusal of the statements of the witnesses and the report, it is crystal clear that it was a dispute on account of partition of agricultural land. Mere refusal to effect the partition of the house property and plot is not sufficient to establish the essential ingredients of Section 107 of the I.P.C. i.e. abetment to commit suicide.

10. The Hon'ble Supreme Court in the case of **Geo Verghese vs. The State of Rajasthan and others: AIR 2021 SC 4764**, in para 22, has observed as under:-

“22. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in

consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.”

11. From the charge sheet, particularly statements of the witnesses, it appears that the husband of the informant was chronic alcoholic and there used to be frequent quarreling between the deceased and the informant. The deceased had obtained various unsecured loans. It also appears that the husband of the informant was having suicidal tendency and in respect of the same, the Medical Superintendent, Sub District Hospital Mukhed has given reply to the letter dated 20.5.2022 issued by Mr. N.P. Hake, Civil Judge, Junior Division, Mukhed. From the charge sheet and the material collected by the investigating machinery, it also appears that the ingredients i.e. abetment by instigation etc. as per Section 107 of the IPC which are required to constitute offence punishable under section 306 of I.P.C. are absent. There is no evidence that the applicants have aided, instigated or conspired the husband of the informant to commit suicide. There was no previous enmity between the applicants and the husband of the informant. Even if the allegations made in the report are considered, the same do not constitute the offence of abetment to commit suicide. Therefore, on the basis of vague report and the statements of witnesses, if the applicants are compelled to face the trial, that would be an abuse of process of the court. The

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

O R D E R

- I. The application stands allowed.
- II. The F.I.R. No.125 of 2022 registered with Mukhed Police Station, District Nanded for the offence punishable under section 306 r.w. 34 of the I.P.C. and the proceedings in Sessions Case No. 82 of 2023 pending before learned Sessions Court, Kandhar, camp Mukhed, stand quashed to the extent of applicants herein.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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