



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

27 CRIMINAL APPLICATION NO. 2570 OF 2022

Supriya D/o. Shivajirao Dhobale,
Age : 20 Years, Occu. : Student,
R/o. Asola, Jawala Bajar, Hingoli,
Aundha Nagnath.

.... Applicant

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station (City),
Tq. Basmat, Dist. Hingoli.
2. Narayan S/o. Vishwanath Telgad,
Age : 46 Years, Occu. : Agricultural,
R/o. Pandhari, Tq. & Dist. Parbhani.

.... Respondents

....
Advocate for the Petitioner : Mr. Girish K. Naik Thigle
APP for Respondent No.1-State : Mr. V.K. Kotecha
Advocate for Respondent No.2 : Mr. Sudhir K. Chavan

....

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

Dated : 17th March 2025

PER COURT :-

1. The present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”), initially for quashment of the First Information Report (for short “the F.I.R.”) vide C.R. No.0270 of 2022, dated 02.07.2022, registered with

Hatta Police Station, Tq. Basmath, Dist. Hingoli and later on, by way of amendment, for quashing of R.C.C. No.182 of 2023, then pending before the learned Judicial Magistrate First Class, Basmath, Dist. Hingoli, for the offence under Section 306 of the Indian Penal Code, 1860 (for short “the I.P.C.”).

2. Heard learned Advocate for the applicant as well as learned APP for the State and learned Advocate for respondent No.2/informant.

3. Learned Advocate for the applicant has taken us through the contents of the F.I.R. as well as charge-sheet and submits that the allegations are that the present applicant used to talk with the deceased. However, she had suddenly stopped talking with him and because of that, the deceased was under tension. In fact, the suicide was committed on 25.03.2022, for which A.D. came to be registered on 26.03.2022, by the informant himself. However, no allegations were made on that day. Thereafter, the F.I.R. came to be registered on 02.07.2022. There is no reasonable explanation given in the F.I.R. for the delay. Perusal of the statements of witnesses would also show that there was no positive act committed by the present applicant for the abetment and therefore, the ingredients of the offence are not made out. It would be unjust to ask the applicant to face the trial.

4. Per contra, learned APP and learned Advocate for respondent No.2/informant have strongly opposed the application and they submit that there is sufficient evidence collected during the course of investigation which would show that the case is made out for trial. Taking into consideration the scope of Section 482 of Cr.P.C., the inquiry cannot be to the extent of whether a conviction can be imposed on the basis of the material that has been collected. Though the informant, who is the father of the deceased, had no knowledge about the relationship between the deceased and the applicant, yet he came to know about it from his nephew after some days and during the investigation, the statements of witnesses, especially a friend of the present applicant and friend of the deceased, have been recorded and they have stated that the applicant and deceased used to talk with each other and in fact there was love affair between them. But, thereafter, the applicant stopped talking to the deceased. The deceased used to give phone calls on the mobile of a friend of the applicant even though she had blocked the number of the deceased. This action on the part of the applicant had led to the mental tension and he took it as harassment and therefore, he has committed suicide and thus, the case is made out for trial.

5. Respondent No.2/informant is the father of the deceased

Gajanan, who was taking education in D-Pharmacy. It appears that the informant had no knowledge about the reason why his son committed suicide at around 05.30 p.m. on 25.03.2022. Accordingly, A.D. No.02 of 2022 under Section 174 of Cr.P.C. was registered by him. But, then, he says that after some days, he came to know from his nephew that since two months prior to the death, there was love affair between deceased Gajanan and the applicant and they used to talk on phone with each other and used to meet with each other. This fact was told by Gajanan to him and then he also told that, all of a sudden, the applicant had stopped talking with the deceased and she was talking with some other boy. She was avoiding the deceased. Because of which, Gajanan was feeling harassment and was under tension and then, the informant says that the death of his son was due to the behavior of the applicant.

6. Here, in this case, the fact that Gajanan has committed suicide appears to be not in dispute. The A.D., inquest panchanama, spot panchnama and post mortem report are all corroborating the fact of suicide. The post mortem report gives the probable cause of death as “death is complete hanging”.

7. In order to attract the provision of Section 306 of I.P.C., we must consider Section 107 of I.P.C. Taking into consideration the

definition of abetment of a thing given under Section 107 of I.P.C., it can be said that in order to constitute abetment, an abettor must be shown to have intentionally aided the commission of a crime. We are taking note of various decision in *M. Mohan Vs. State Through Dy. Superintendent of Police, 2011 (3) SCC 626* and *Dilip S/o Ramrao Shirasao and Others Vs. State of Maharashtra and Another, 2016 ALL MR (Cri) 4328*, wherein it is held that an active act on the part of a person who alleged to have committed abetment is necessary.

8. In order to consider the said act, we are taking note of the statement of witness Dwarka Waghmare, who is friend of the present applicant. Her statement has been recorded under Section 161 of Cr.P.C. as well as Section 164 of Cr.P.C. She has specifically stated that the present applicant had told her that there is love affair between herself and deceased and they used to meet in the college. However, thereafter, there was quarrel between both of them. The deceased used to raise suspicion on the applicant by saying that she talks with somebody else. He used to abuse her and pick up quarrels with her and therefore, the applicant told him that he should not talk to her and then she had blocked his account as well as phone number. On 25.03.2022, the deceased had given phone call on the mobile of witness Dwarka, then the deceased and the present applicant had

talked. This witness says that even on that day, the applicant had told that he should not call her as he is raising suspicion over her and giving abuses referring to her mother.

9. There are statements of other friends of the applicant, but it appears that they are hearsay. The friends of the deceased have only stated about the relationship between the deceased and the applicant. Therefore, from the available evidence on the charge-sheet, it can certainly be said that there was absolutely no intention on the part of the present applicant when she blocked the phone number of the deceased so that he should commit suicide. There is no active role on the part of the present applicant intending that there should be suicide by the deceased. Even from the FIR itself, it can be seen, whatever was conveyed to the nephew of the informant and in the statement of the said nephew under Section 161 of Cr.P.C. also, that as the applicant was not talking with the deceased, he was under tension and he had a feeling that he should not live. It was not informed by the deceased that positive incident had happened in the recent past on which the deceased committed suicide.

10. Thus, when the ingredients of the offence are not made out prima facie also, this would be a fit case where we should exercise our powers under Section 482 of the Cr.P.C., as it is the parameters

laid down in *State of Haryana vs. Ch. Bhajan Lal and others*, *AIR 1992 SC 604*. It would be abuse of process of law if the applicant is allowed to face the trial. Hence the following order is passed.

ORDER

1. The application stands allowed.
2. The First Information Report vide C.R. No.0270 of 2022, registered with Hatta Police Station, Tq. Basmath, Dist. Hingoli and the proceedings in R.C.C. No.182 of 2023, pending before the learned Judicial Magistrate First Class, Basmath, Dist. Hingoli and/or if the case is committed for the sessions, then the proceedings before the learned Additional Sessions Judge, Basmath, Dist. Hingoli, for the offence under Section 306 of the Indian Penal Code, 1860 stands quashed and set aside as against the present applicant.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE