



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

902 CRIMINAL APPLICATION NO. 4063 OF 2024

Sunil S/o Bhagwan Maharumardane

Age: 34 Years, Occu: Service

R/o Village Lohari, Tq-Pachora,

Dist-Jalgaon.

At present

R/o Military Hospital Vadodare, Fatehgunj

C/o 56 APO, EME Campus, State of Gujrat.

... Applicant

Versus

1. The State of Maharashtra,
Through, The Investigating Officer,
Erandol Police Station, Jalgaon.

2. Shriram S/o Rajaram Patil,
Age 65 years, Occu- Agri
R/o Hivarkheda Buddruk
Tq- Jamner Dist-Jalgaon.

... Respondents

...
Mr. Datta Ankush Madake, Advocate for Applicant.

Mr. V. K. Kotecha, APP for Respondent No.1 / State.

Mr. Bhargav Kulkarni, Advocate for Respondent No.2. (Appointed)

...

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

DATE : 11th July, 2025.

Per Court :

. Leave to amend. Amendment be carried out within two
weeks.

2 Present application has been filed under Section 482 of the Code of Criminal Procedure for quashing the proceedings in Sessions Case No.89 of 2024, pending before the learned Sessions Judge, Jalgaon, arising out of FIR vide C.R. No.80 of 2022, dated 8th May, 2022, registered with Erandol Police Station, District Jalgaon, for the offence punishable under Section 306 of the Indian Penal Code.

3 Heard the learned counsel for the applicant, the learned APP for applicant No.1 / State and the learned counsel appointed to represent the cause of respondent No.2.

4 The learned counsel appearing for the applicant, the learned APP as well as learned counsel who has been appointed by us to represent the cause of respondent No.2, have taken us through the entire charge-sheet. The learned counsel for the applicant submits that the FIR was against an unknown person and the informant is the father of the deceased. Prior to the registration of the offence, the husband of the deceased had lodged AD. Vishwanath Patil is the husband of the deceased Rupali. Rupali committed suicide by hanging on 23rd April, 2022. If we come to the AD that has been registered by the husband, then it can be seen that he was not present in the house when the deceased committed suicide. Thereafter, the

FIR came to be registered belatedly on 8th May 2022, that too against an unknown person, on the basis of suicide note, which has been allegedly left by the deceased in the diary. The spot *Panchanama* was executed between 17:15 hours to 18:10 hours on the same day that is on 23rd April, 2022, making a reference to the suicide note. Later on, the mobile of the deceased has been seized and in the statement of the husband recorded on 10th November, 2022. He states that on one day, he found that his wife was talking at late night with one person and at that time when he asked as to who is the other person on the phone, she tried to avoid to give the answer, but then he took her mobile and then asked who is talking. He was told allegedly by the present applicant that he is a military person and the applicant gave his name. When the husband asked the applicant as to why he is talking to his wife, then the present applicant disconnected the call. The husband says that when he made inquiry with the wife, she told that she got acquainted with the applicant on Facebook and they used to talk on phone on some occasions. He then told that she should not talk with the applicant thereafter. He had told the said fact to the mother of the victim also and the mother of the victim has repeated the same thing in her statement. Even if we take those statements as it is, it cannot be stated that any such act amounting to defamation of the victim has been committed by the present applicant. There is absolutely no evidence in the charge-sheet, which will amount to

abetment and therefore, it would be unjust to ask the applicant to face the trial.

5 The learned counsel for the applicant places reliance on the decision of ***M. Mohan Vs. State Represented by the Deputy Superintendent of Police Velmurugan and Anr***, reported in, ***AIR 2011 Supreme Court 1238***, wherein it has been held as under:-

“Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the Legislature is clear that in order to convict a person under Section 306, IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.”

6 The learned counsel for the applicant then relies on the decision in ***Vikas Chandra Vs. State of Uttar Pradesh and Anr.***, reported in, ***AIR Online 2024 SC 277***, wherein it has been held that when alleged suicide note did not refer to the alleged incident involving deceased and accused, either explicitly or implicitly, then there was no

material showing that the accused had abetted deceased in a manner which will attract the provisions of Section 107 of IPC. He further relies on the decision of this Court in ***Vitthal Sambhajirao Gutte Vs. State of Maharashtra and Anr***, reported in, ***AIROnline 2025 BOM 218***, wherein it was held that when there was no proximity between wrongful act committed by applicant and suicide committed by deceased and there is failure to establish *mens-rea* even *prima-facie* the ingredients of offence of abetment to commit suicide were not made out.

7 The learned APP and the learned counsel appointed to represent the cause of respondent No.2 strongly opposed the application and they submit that, certainly in the suicide note, it has been mentioned that the family members are not at fault, but the deceased could not sustain her defamation. The learned appointed counsel for respondent No.2 submits that the deceased might have chosen not to disclose the name in writing of the person who has defamed her, but certainly there might be some evidence in respect of the same in the mobile phone, which has been seized. The learned APP submits that the call record shows many phone calls those were made and the FSL report is still awaited. They both submit that a specific query has been made to the FSL and till the answers of the same are given, this cannot be the fit case where the Court should

exercise its powers under Section 482 of the Cr.P.C.

8 At the outset, we would like to place a fact on record that by order dated 13th June, 2025, when we had heard the learned counsel for the applicant for a while, we felt the need of the presence of investigating officer, when the learned APP pointed out that the report in respect of mobile phones, those have been seized, are yet awaited from the FSL, we could not find the detailed *Panchanama* or the transcript of the alleged chatting which the learned APP was trying to make out in the charge-sheet and therefore, we had asked the investigating officer to remain present. The investigating officer was not present on 25th June, 2025. However, we again directed the investigating officer to remain present. As per our directions, affidavit of the investigating officer i.e. Assistant Police Inspector, Shrigonda Police Station, District Ahilyanagar, Mr. Ganesh s/o Kashinath Ahire, has been produced, wherein he has categorically admitted that he has not followed the directions given by this Court, whenever the devices are required to be sent for forensic analysis to Forensic Science Laboratory. In this connection, we reiterate that in Criminal Appeal No.549 of 2019 and companion matters i.e. in *Vaijinath S/o Sominath Rakh Vs. The State of Maharashtra and another*, by order dated 10th July, 2019, this Court had given certain directions. Of-course, those were mainly in respect of CCTV footage, but they were also applicable

to the pen-drive and other electronic devices. A transcript of the same should be prepared by the investigating officer before sending such devices to FSL for analysis, was the gist of the direction. In fact, the learned Registrar (Judicial) of this Court was directed to communicate the decision to the Secretary, Home Department of the Government for circulation of it, to all the Police Stations and other Investigating Agencies of the State so that the procedure as indicated in the decision is followed. In spite of this position, it appears that those directions have not been followed. We would also like to add that following these directions is a must or mandatory in the scenario that there is huge pendency with the FSLs and time and again we are coming across the delay in the reports. The trials are withheld and the constitutional rights of the accused of speedy trial, which will also affect the rights of the victim and the prosecution, are also affected. If the transcripts are prepared in advance, then the investigating officer would be in a position to take a decision as to whether the said devices should be sent for analysis or not. Unless there is something, which will be helpful in the investigation and the trial, there is no point in sending such devices for analysis. It will only increase the pendency of analysis with FSLs. Of-course, now at this stage, we are of the opinion that no advantage can be given of the said fact to the applicant, but on the basis of whatever is on record, whether offence is made out or not, has to be decided.

9 We have already taken note of the legal requirements that is required in an offence under Section 306 of the IPC. In addition to it, we rely on ***Sanju alias Sanjay Singh Sengar Vs. State of Madhya Pradesh***, reported in, ***2002 Cri.L.J. 2796; Madan Mohan Singh Vs. State of Gujrat and another***, reported in, ***(2010) 8 SCC 628***; and in the case of ***S.S. Chheena Vs. Vijay Kumar Mahajan***, reported in, ***2010 All MR (Cri) 3298 (S.C.)***.

10 The first and the foremost fact that is involved in the present case is that the deceased has allegedly left the suicide note. As on today, we take that the said chit is in the handwriting of the deceased, we reproduce the translation of said suicide note for the sake of further discussion:-

“I, Rupali, am ending my life. It is not the fault of my family. I could not bear the defamation done to me by an unknown person. I have a purse put up near the God’s place, in which all my earnings are for my daughter and son. My obeisance(bow down) to my parents, my last farewell to my sister. Please take care of my children. This is my last request. I wanted to do a lot for my children in life.. I finally lost.....”

11 Thus, it is to be noted that only sentence, which can be

said to be related to her death is “माझी अज्ञात व्यक्तीने केलेली बदनामी मी सहन नाही करू शकले”. She could not withstand her defamation by unknown person, was her say, but the said suicide note is so cryptic that it is neither disclosing the identity of the person who defamed her nor it disclosed whether she has been defamed and by which means. What was the material, which amounted to her defamation, has not been stated in the suicide note. Therefore, on the basis of this cryptic reason or statement, we cannot take the said suicide note as a piece of document, which can be said to be admissible as per Section 32(1) of the Indian Evidence Act. The circumstances, which were responsible for the cause of death should have been clearly disclosed, then only such a note can be said to be admissible in evidence. Therefore, even in this *prima-facie* stage also, we cannot give importance to the said suicide note.

12 As aforesaid, the FIR is against an unknown person. During the investigation, the statements of witnesses have been recorded and interestingly the FIR has been lodged on 8th May, 2022 and the statement of the husband of the deceased has been recorded on 10th November, 2022 i.e. after about six months and then he says that on one day he could notice late-night conversation between his wife and the applicant. It is not the case of the prosecution that in spite of caution given to the deceased by her husband, parents etc., still the

deceased went on talking with the applicant late night. Even if for the sake of argument, it is accepted that she was talking with the applicant on phone, yet none of these witnesses have stated that they had ever came to know that the applicant had defamed the deceased. In his statement, the husband of the deceased states that deceased had disclosed to him that she got acquaintance with the present applicant on Facebook. There was no hurdle for the investigating officer to check the Facebook account of the deceased. There is absolutely no attempt on his part. The said conversation or posts on the Facebook can be read from other device also and for that purpose, mobile phone of the deceased is not a precondition. Now, as regards the call details are concerned, at the most it would show that there were calls between two persons. However, it will not suggest any such act amounting to defamation, because the defamation of a person can be made to another person and not to the person himself or herself.

13 Thus, taking into consideration the entire material in the charge-sheet, we hold that the material is not sufficient to attract the ingredients of Section 107 or 306 of the IPC. The investigating officer has absolutely not handled the investigation properly. It appears that he himself is not techno-savvy and therefore, he could not collect any evidence. Now, the applicant cannot be asked to face the trial with such material and also cannot be asked to wait till the FSL report or for

a better investigation. It would affect his fundamental rights. This is a fit case where we should exercise our powers under Section 482 of the Cr.P.C. Hence, the following order:-

ORDER

- I. The application stands allowed.
- II. The proceedings in Sessions Case No.89 of 2024, pending before the learned Sessions Judge, Jalgaon, arising out of FIR vide C.R. No.80 of 2022, dated 8th May, 2022, registered with Erandol Police Station, District Jalgaon, for the offence punishable under Section 306 of the Indian Penal Code, stands quashed and set aside as against the applicant.
- III. The fees of Mr. Bhargav Kulkarni, learned counsel appointed to represent the cause of respondent No.2 is quantified at Rs.10,000/- (Rupees Ten Thousand Only) and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]

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