



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

CRIMINAL APPLICATION NO. 4189 OF 2023

- 1] Swarangi @ Meena Vishnu Vagadkar
(In FIR named as Swarangi Vishnu Vagatkar)
Age-27 years, Occupation-Homemaker,
R/o. Rachana Nagar, Karegaon Road,
Parbhani Tq. & Dist. Parbhani.
- 2] Sarjabai Sambhaji Khandare
Age-44 years, Occupation-Homemaker,
R/o. Rachana Nagar, Karegaon Road,
Parbhani, Tq. & Dist. Parbhani.
- 3] Sambhaji Piraji Khandare
Age-50 years, Occupation-Service,
R/o. Rachana Nagar, Karegaon Road,
Parbhani, Tq. & Dist. Parbhani.

... **Applicants**
(Accused)

Versus

- 1] The State of Maharashtra,
Through Officer Incharge
Police Station Bhokar,
Dist. Nanded.
- 2 Ramaji Satavaji Vagadkar
Age-55 years, Occupation-Agriculture,
R/o. Wakad, Tq. Bhokar,
Dist. Nanded.

... **Respondents**
(Respondent no.2 is original informant)

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Mr. Sudarshan J. Salunke, Advocate for Applicants.

Smt. R. P. Gour, APP for Respondent No.1 / State.

Mr. N. P. Badale, h/f Mr. S. G. Kawade, Advocate for Respondent No.2.

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CORAM : **SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**
RESERVED ON : 30th January, 2025.
PRONOUNCED ON : 27th February, 2025.

J U D G M E N T : (Per Sanjay A. Deshmukh, J.)

. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973, for quashing of the case bearing Sessions Case No.10 of 2024, pending in the Court of learned Sessions Judge at Bhokar, District Nanded, arising out of First Information Report (for short "FIR") in Crime No.315 of 2023, dated 31st August, 2023, registered with Bhokar Police Station, District Nanded, for the offences punishable under Sections 306 and 507 read with 34 of the Indian Penal Code, 1960 (for short "IPC").

3 It is averred in the report that respondent No.2/informant is the father-in-law of applicant No.1. Applicant Nos.2 and 3 are parents of applicant No.1. The son of informant namely, Vishnu was

serving as Assistant Civil Engineer in the Minor Irrigation Department since 2016. On 16th May, 2023, Vishnu got married to applicant No.1. After marriage, applicant No.1 became three to four months pregnant. She terminated her pregnancy without the consent of her husband and the informant at Nanded. Thereafter, the informant and his wife Sumanbai went to Kalamb and questioned as to why the pregnancy was terminated by applicant No.1. At that time, quarrel took place between them. On 20th October, 2023, the informant filed a written complaint against the applicants and others at Kalamb Police Station. Thereafter, applicant No.1 – Swarangi continued to reside with her parents. Later, she lodged a report against Vishnu and seven other family members with Shivajinagar Police Station, Parbhani. The crime was registered against them for the offences punishable under Section 498-A read with 34 of the IPC. Subsequently, she filed an application for maintenance. She also filed the proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005.

4 Though the informant's side made several attempts to bring applicant No.1 back, she was not willing to cohabit with Vishnu. Whenever the informant and Vishnu attended the Court hearings at Parbhani, all the applicants were threatening that they would eliminate

Vishnu. Vishnu was continuously under fear. He was behaving like a mentally disturbed person. He was under stress. On 29th July, 2023, Vishnu attempted to commit suicide by consuming poison. He was admitted in the hospital. However, he died on 3rd August, 2023. Thereafter, report was lodged against the applicants that they had abetted Vishnu for the commission of suicide.

5 The learned counsel for the applicants submitted that there is no evidence of abetment to commit suicide against any of the applicants. All the applicants are residing in a different village. From the report itself, it is clear that Vishnu was suffering from mental illness and due to that he committed suicide. He lastly prayed to allow the application.

6 The learned APP and the learned counsel for respondent No.2 strongly opposed the application and submitted that the names of the applicants are mentioned in the report. They have instigated Vishnu for commission of suicide. Only because of the applicants' abetment and instigation Vishnu committed the suicide. They lastly prayed to reject the application.

7 Perused the report and the charge-sheet.

8 Admittedly, the applicants are residents of Rachana Nagar, Karegaon Road, Taluka and District Parbhani. The informant and his son Vishnu were residing at Wakad, Taluka Bhokar, District Nanded. The cases under Section 498-A of the IPC, under Section 125 of the Cr.P.C. and under the provisions of the Protection of Women from Domestic Violence Act for maintenance etc. were pending when the alleged incident took place. No incident occurred soon before Vishnu committed suicide. Thus, direct and proximate cause to instigate Vishnu for commission of suicide on the part of these applicants is lacking. From the report itself, it reveals that Vishnu was suffering from mental illness and that may be the reason for his suicide. To file the cases is right of applicant No.1. It's legality etc. are different aspects. It is established that husband and wife were not residing under one roof. The informant in his report though stated that the applicants threatened that they will beat Vishnu and others with the help of other persons, no specific incident is stated by him. No witness has also stated such incident occurred there.

9 On the allegation of causing miscarriage, applicant No.1 – Swarangi has filed the papers of treatment and prescription issued by doctor, which shows justifiable reason for commission of miscarriage

for her health. Therefore, on this count, there cannot be abetment to commit suicide. The postmortem report states cause of death is consistent with poisoning. Though suicidal death of Vishnu is establishing from the postmortem report, abetment to commit suicide must be established independently. There is no material to support the contentions of the informant in the report. The stress of Court cases was the reason of mental illness of Vishnu. There is no evidence of instigation on the part of the applicants.

10 The essential ingredients of abetment by instigation etc. as contemplated by Section 107 of the IPC are *prima-facie* not establishing from the FIR and the charge-sheet. Further, essential ingredients of Sections 306 and 507 of the IPC are also not establishing *prima-facie* from the report and charge-sheet, particularly from the statements of witnesses. In such facts and circumstances, if the applicants are asked to face the trial, it would certainly be an abuse of the process of Court. Therefore it is necessary to exercise powers under Section 482 of the Criminal Procedure Code, 1973 to quash the report and charge sheet. We are, therefore, inclined to allow the application. Hence, the following order:-

ORDER

- I. The application is allowed in terms of prayer clauses (B), (C-1) and (C-2).
- II. Rule is made absolute in the above terms.

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

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