



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4605 OF 2023

Adnan Hamid Shaikh,
Age-45 years, Occu:Private Business,
R/o-Majalgaon, Beed,
Taluka and District-Beed.

...APPLICANT

VERSUS

1) The State of Maharashtra,
Through Officer In-charge,
Police Station Beed (City),
District-Beed,

2) X Y Z (Name withheld)

...RESPONDENTS

...
Mr. Rajendra S. Deshmukh, Senior Counsel a/w. Mr. Ubaid
S. Hashmi Advocate i/by Mr. Shashikant Shekade Advocate
for Applicant.

Mr. S.A. Gaikwad, A.P.P. for Respondent No.1 – State.
Mr. N.R. Thorat Advocate for Respondent No.2.

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

DATE OF RESERVING ORDER : 12th AUGUST 2025

DATE OF PRONOUNCING ORDER : 18th SEPTEMBER 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Applicant has filed present Application filed for quashing

Charge-sheet No.78 of 2023 i.e. the proceedings in R.C.C. No.649 of 2023, pending before the learned Chief Judicial Magistrate, Beed, arising out of the First Information Report (for short "the FIR") vide Crime No. 140 of 2023 registered with Police Station, Beed (City), District-Beed, on 2nd July 2023, for the offence punishable under Sections 306, 500 read with Section 34 of the Indian Penal Code.

2. Heard learned Senior Advocate Mr. Deshmukh instructed by learned Advocate Mr. Shekade for the applicant, learned APP Mr. Gaikwad for respondent State and learned Advocate Mr. Thorat for respondent No.2.

3. It will not be out of place to mention here that the present applicant had approached this Court by filing Criminal Writ Petition No.1499 of 2023 for quashing the FIR. The said writ petition came to be disposed of as withdrawn on 19th October 2023, by this Court, to which Division Bench one of us i.e. SANJAY A. DESHMUKH, J. was party. However, it is to be noted that on the same day the charge-sheet appears to have been filed before the learned Magistrate, Beed and therefore, the petition appears to have been withdrawn. Any way, this Court

had not considered the material in the charge-sheet on the day when the earlier writ petition was withdrawn and therefore, present Application is maintainable.

4. Learned Senior Counsel Mr. Deshmukh instructed by Mr. Shekade Advocate has taken us through the entire charge-sheet along with the FIR. He submits that the FIR has been filed by respondent No.2, who is the widow of deceased Sandeep Pimpale. The documents on record would show that Sandeep has set himself to fire in front of the office of the District Superintendent of Police, Beed at 11.45 p.m., on 23rd May 2023. He was immediately admitted by police to the Government Hospital at Beed and he expired on 2nd July 2023. After he expired, the FIR has been lodged on 2nd July 2023. An offence under Section 376 of the Indian Penal Code was registered against deceased Sandeep. As per the informant, present applicant was along with the prosecutrix when earlier FIR was lodged against Sandeep and it is the impression that was carried by Sandeep that the present applicant had instigated the said prosecutrix in lodging the FIR against him. Perusal of the FIR vide Crime No.165 of 2023 would show that it was lodged on 18th May 2023 and Sandeep had given information regarding lodging

of the said report to present respondent No.2 on 20th May 2023. In the present FIR, it is stated that while undergoing the treatment in the Government Hospital, Beed, Sandeep was stating that he has felt defamed in the society and therefore, he has lost the desire to live. But the entire charge-sheet would show that there is no dying declaration recorded by the police. If Sandeep was in a state to give statement, then his statement ought to have been recorded. Entire record would not show that at any point of time the applicant had met deceased Sandeep and had done any active part or he had desire that Sandeep should commit suicide. The said prosecutrix who had filed FIR against deceased Sandeep is the relative of respondent No.2. The prosecutrix was serving as a manager in the hotel of present applicant since 2021. The applicant had accompanied the prosecutrix to the police station when prosecutrix wanted to lodge the FIR. But that does not mean that he had instigated the prosecutrix in lodging the report. The basic ingredients of the offence under Section 306 of the Indian Penal Code are not getting attracted. Section 500 of the Indian Penal Code is non-cognizable offence.

5. Learned APP and learned Advocate for respondent No.2

strongly opposed the Application and submitted that in fact the said prosecutrix who had levelled allegations under Section 376 of the Indian Penal Code etc., in Crime No.165 of 2023, has illicit relations with the present applicant. The said prosecutrix had tried to have a *Nikah* between her minor daughter and son of applicant against the wish of her daughter. Even the son of the present applicant had tried to commit rape on the minor daughter of the prosecutrix. When all these facts were revealed to grandfather of said daughter of the prosecutrix, then he had taken the custody of the said daughter. He lodged a complaint application with the police station on 29th May 2023. The said prosecutrix had made allegations against deceased Sandeep in respect of rape in the year 2014, 2015, 2016 and 2020. She has also stated that the co-accused with Sandeep had also committed rape on her. She had lodged the report after about nine years. Certainly, such acts by the said lady had amounted to defamation and the present applicant was instigating the said prosecutrix who is in fact in the relations from paternal side of respondent No.2. It is not in dispute that Sandeep has committed suicide by setting himself on fire and he has given oral dying declaration to the family members. Though it is a weak kind of evidence, it can be taken note of while considering

the application for quashing the FIR. When entire evidence has been collected and the charge-sheet has been filed, let there be a trial.

6. It will not be out of place to mention here that while hearing the matter when we went through the spot panchnama annexed in the charge-sheet, it was dated 24th May 2023, executed between 11.00 to 11.30 a.m. It was obvious to ask when the FIR was lodged on 2nd July 2023, then how the spot panchnama came to be executed on 24th May 2023, of the spot where deceased set himself to fire. Then it was revealed from the contents that there was Crime No.117 of 2023, filed under Section 309 of the Indian Penal Code against Sandeep and therefore, we had called the papers from the said case. Accordingly, those documents were produced along with the forwarding letter. It could then be revealed that the said FIR in that matter i.e. Crime No.117 of 2023, came to be filed by police head constable Suryakant Annasaheb Andhale on 24th May 2023 and it was on behalf of the State. He has stated that he along with other officials were on guard duty in the intervening night of 23rd May 2023 to 24th May 2023. Around 23.00 hours they saw that a person in the flames had come from the gate of the office

of District Superintendent of Police, Beed and the police persons gathered around that person. All the police persons extinguished the fire. At that time Sandeep was talking. He disclosed his name and then Sandeep was asked as to why he had set himself to fire. Sandeep has stated that false offence has been lodged against him and therefore, he has set himself to the fire. Thereafter the police persons took him to hospital. That means, Sandeep was admitted to hospital on 23rd May 2023, itself. In the investigation of the said Crime No.117 of 2023, by taking necessary endorsement regarding the consciousness of Sandeep, his statement has been recorded. He has stated that he came to know from a news clipping in the newspaper on 20th May 2023, that the offence has been registered against him. The prosecutrix is his cousin mother-in-law and therefore, he felt that he has been defamed and therefore, he has set himself to fire. In fact the police ought to have attached those papers from Crime No.117 of 2023, to the present case. It has been then reported that since Sandeep expired on 2nd July 2023, abated summary was presented on 4th August 2023, before the learned Chief Judicial Magistrate, Beed.

7. Thus, here is a fact that the prosecution / investigation by

State cannot take two stands. In Crime No.117 of 2023, the State had blamed deceased Sandeep for his attempt to commit suicide and in his oral dying declaration Sandeep had not blamed the present applicant. Now in the present case, after death of Sandeep, the relatives have tried to say that the present applicant and the prosecutrix, who had levelled charges of rape against deceased, have defamed deceased Sandeep and therefore, he has committed suicide. In other words, when Sandeep had not blamed the present applicant in his oral dying declaration, the present informant and the relatives, who have also stated that during the treatment Sandeep used to say that he felt that he has been defamed and has no desire to live, should not have made such allegations against present applicant.

8. Even on merits, from the charge-sheet in respect of offence under Section 306, 500 read with Section 34 of the Indian Penal Code, it can be seen that except the oral statements of the informant and the witnesses, there is nothing. Oral dying declaration is a very weak kind of evidence and as aforesaid, there is a dying declaration in writing of Sandeep in Crime No.117 of 2023, for the offence punishable under Section 309 of the Indian Penal Code, we cannot even look at the oral

dying declaration, at prima facie stage also. If we consider the opinion as to the probable cause of death, it is stated that "death due to septicemia due to 53% burns". The percentage of the burns would show that he had only 1% burns on neck and other is to the lower limbs and abdomen. That means, Sandeep would have been able to speak from 23rd May 2023 to 2nd July 2023, but there was absolutely no attempt on the part of the investigating officer to record the dying declaration of Sandeep.

9. Even if we take the FIR and the statements of the witnesses supporting the FIR as it is, yet except the statement that the present applicant was along with the prosecutrix while lodging the FIR, there is nothing. There is no active part that was alleged to be played by the present applicant. Here, we would like to take note of the legal position. In recent decision in *Abhinav Mohan Delkar vs. the State of Maharashtra and others, Criminal Appeal Nos. 2177-2185 of 2024, decided on 18th August 2025*, the Hon'ble Supreme Court has considered many leading cases, i.e., the decision in *Ude Singh and Others. v. State of Haryana, (2019) 17 SCC 301*, *Pawan Kumar v. State of Himachal Pradesh, (2017) 7 SCC 78*, *Amalendu Pal vs. State of West Bengal, (2010) 1 SCC 707*, *S.S. Chheena vs. Vijay Kumar*

Mahajan, (2010) 12 SCC 190, Chitresh Kumar Chopra vs. State (NCT Of Delhi), (2009) 16 SCC 605, Madan Mohan Singh vs. State of Gujarat, (2010) 8 SCC 628, Prakash and others vs. State of Maharashtra and another, 2024 SCC OnLine 3835, State of West Bengal vs. Orilal Jaiswal, (1994) 1 SCC 73. After taking into consideration all these cases, the Hon'ble Supreme Court, in *Abhinav Mohan Delkar vs. the State of Maharashtra and others (supra)*, observed thus:-

"22. What comes out essentially from the various decisions herein before cited is that, even if there is allegation of constant harassment, continued over a long period; to bring in the ingredients of Section 306 read with Section 307, still there has to be a proximate prior act to clearly find that the suicide was the direct consequence of such continuous harassment, the last proximate incident having finally driven the subject to the extreme act of taking one's life. Figuratively, 'the straw that broke the camel's back'; that final event, in a series, that occasioned a larger, sudden impact resulting in the unpredictable act of suicide. What drove the victim to that extreme act, often depends on individual predilections; but whether it is goaded, definitively and demonstrably, by a particular act of another, is the test to find *mens rea*. Merely because the victim was continuously harassed and at one point, he or she succumbed to the extreme act of taking his life cannot by itself result in finding a positive instigation constituting abetment. *Mens rea* cannot be gleaned merely by what goes on in the mind of the victim.

23. The victim may have felt that there was no alternative or option, but to take his life, because of what another person

did or said; which cannot lead to a finding of *mens rea* and resultant abetment on that other person. What constitutes *mens rea* is the intention and purpose of the alleged perpetrator as discernible from the conscious acts or words and the attendant circumstances, which in all probability could lead to such an end. The real intention of the accused and whether he intended by his action to at least possibly drive the victim to suicide, is the sure test. Did the thought of goading the victim to suicide occur in the mind of the accused or whether it can be inferred from the facts and circumstances arising in the case, as the true test of *mens rea* would depend on the facts of each case. The social status, the community setting, the relationship between the parties and other myriad factors would distinguish one case from another. However harsh or severe the harassment, unless there is a conscious deliberate intention, *mens rea*, to drive another person to suicidal death, there cannot be a finding of abetment under Section 306.

24. We have already seen that even a rebuke to "go, kill yourself"; often a rustic expression against distasteful conduct, cannot by itself be found to have the ingredients to charge an offence of abetment to suicide. There is no uniformity in how different individuals respond and react under pressure. Many stand up, some fight back, a few runaway and certain people crumble and at times take the extreme step of suicide. To put the blame on the pressure imposed and the person responsible for it, at all times, without something more to clearly discern an intention, would not be the proper application of the penal provisions under Section 306."

10. Therefore, taking into consideration the facts and the law, it would be an abuse of process of law if the applicant is asked to

face the trial. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The Charge-sheet No.78 of 2023 i.e. the proceedings in R.C.C. No.649 of 2023, pending before the learned Chief Judicial Magistrate, Beed, arising out of the First Information Report vide Crime No. 140 of 2023, registered with Police Station, Beed (City), District-Beed, on 2nd July 2023, for the offence punishable under Sections 306, 500 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant - Adnan Hamid Shaikh.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/SEP25