



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

35 CRIMINAL APPLICATION NO.233 OF 2024

- 1 Ashok Nagorao Jondhale,
Age 42 yrs., Occ. Labour,
R/o Eknath Nagar, Osmanpura,
Dist. Aurangabad.
- 2 Manorama w/o Harshraj Kharat,
Age 32 yrs., Occ. Household,
R/o Krushi Nagar, Parbhani.

... Applicants

... Versus ...

- 1 The State of Maharashtra
- 2 Balaji Nivrutti Aasale,
Age 49 yrs., Occ. Labour,
R/o Shekhrajur, Tq. Palam,
Dist. Parbhani.

... Respondents

...

Mr. Sohail Subhedar, Advocate h/f Mr. S.P. Waghchaure, Advocate for
applicants

Mr. S.A. Gaikwad, APP for respondent No.1

Mr. R.R. Dhongde, Advocate (appointed) for respondent No.2

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

DATE : 18th JUNE, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed initially for quashment of First Information Report vide Crime No.90/2019 registered with Osmanpura Police Station, Aurangabad, for the offence punishable under Sections 306, 498-A read with Section 34 of the Indian Penal Code, 1860 and later on by way of amendment for quashing the proceedings in Sessions Case No.746/2019 pending before learned Additional Sessions Judge, Aurangabad.

2 Heard learned Advocate Mr. Sohail Subhedar h/f learned Advocate Mr. S.P. Waghchaure for applicants, learned APP Mr. S.A. Gaikwad for respondent No.1 and learned Advocate Mr. R.R. Dhongde for respondent No.2.

3 After disinclination is shown to grant any relief to applicant No.1, learned Advocate for applicants, upon instructions, seeks withdrawal of application as against him. Application stands dismissed as withdrawn as against applicant No.1.

4 Learned APP submits that it appears that charge has been framed at Exh.32 against both the applicants and the matter is for evidence. We are

of the opinion that though the charge might have been framed, that does not estop this Court from exercising its powers under Section 482 of the Code of Criminal Procedure in a deserving case.

5 The First Information Report has been lodged by respondent No.2, who is father of deceased Alka. Alka got married to one Raju, who is brother of applicant No.1 in 2018. It is stated that since March Alka was residing with her husband, mother-in-law and brother-in-law at Milind Nagar, Osmanpura, Aurangabad. It will not be out of place to mention here that there are certain documents on record which would show that brother i.e. present applicant No.1 resides at Eknath Nagar, however, it is in Aurangabad itself. But, admittedly, present applicant No.2, who is sister-in-law of deceased Alka, resides at Parbhani. She got married prior to marriage of Alka with Raju. In the entire First Information Report and the charge sheet it is not stated that prior to 19.05.2019 (the day on which Alka committed suicide) present applicant No.2 had come to her parental home i.e. matrimonial home of deceased Alka. In the First Information Report and the statements of witnesses it is stated that whenever applicant No.2 – the sister-in-law used to come to matrimonial home of Alka, at that time, she used to give taunts. Now, as to on what count the taunts used there, has not been stated. This is also a fake statement, because when she used to come to her

parental home, has also not been stated approximately. Under such circumstances, there is no evidence to infer that she would have subjected deceased Alka to cruelty as defined under Section 498-A of the Indian Penal Code, nor she could have abetted the commission of suicide of Alka to attract the provisions of Section 306 of the Indian Penal Code. As regards the offence under Section 306 of the Indian Penal Code is concerned, following can be said to be the legal position which is emerging from various case laws. **Dilip Ramrao Shirasao and others vs. State of Maharashtra and another** [2016 ALL MR (Cri) 4328], **Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh** [2002 Cri.L.J. 2796], **Madan Mohan Singh vs. State of Gujrat and another** [(2010) 8 SCC 628], **S.S. Chheena vs. Vijay Kumar Mahajan** [2010 All MR (Cri) 3298 (S.C.)] and **R. Shashirekha vs. State of Karnataka and others** [2025 INSC 402]. Taking into consideration the ratio laid down in all these authorities and the fact in present case, definitely, ingredients of any of the offences under which charge sheet is filed are not at all attracted. Further, it has been observed in one of the recent Judgments in **Mahendra Awase vs. The State of Madhya Pradesh** [2025 INSC 76] that merely for the satisfaction of informant Investigating Officer should not file charge sheet against accused, arrayed in offence under Section 306 of the Indian Penal Code. In **Amalendu Pal @ Jhantu vs. State of West Bengal** [(2010) 1 SCC 707] similar view that of **M. Mohan** (supra) is taken, wherein

it was held that -

“In a case of abetment of suicide, there must be proof of direct or indirect act(s) of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the deceased to commit suicide, conviction in terms of Section 306 of the Indian Penal Code would not be sustainable.”

5.1 In **R. Shashirekha** (supra) in paragraph No.13 the Hon’ble Supreme Court has observed that -

13. Assuming that the allegations are true, even otherwise, the case under Section 306 of IPC would not be made out. Recently, this Court in a case of **Prakash and others vs. State of Maharashtra and another** [2024 SCC OnLine SC 3835] in which one of us (Gavai, J.) was a Member has considered all the earlier judgments with regard to Section 306 of IPC. After referring to the earlier judgments, this Court has observed thus :

“31. In the case of **Sanju @ Sanjay Singh Sengar** (supra), this Court, under similar circumstances, had quashed the charge sheet under Section 306 of the IPC against the accused- appellant. A factor that had weighed with the Court in the said case was that there was a time gap of 48 hours being the alleged instigation and the commission of suicide. This Court held that the deceased was a victim of his own conduct, unconnected with the quarrel that had ensued between him and the appellant, 48 hours prior to the commission of his suicide.

32. In the case at hand, taking the allegations in the FIR at face value, the incident at the mahalokadalat had occurred on 17th February 2015, while the deceased had committed suicide on 20th March 2015. There is a clear gap of over a month between the incident at the mahalokadalat and the commission of suicide. We

therefore find that the courts below have erroneously accepted the prosecution story that the act of suicide by the deceased was a direct result of the words uttered by the appellants at the mahalokadalat.

.....

34. The cardinal principle of the subject-matter at hand is that there must be a close proximity between the positive act of instigation by the accused person and the commission of suicide by the victim. The close proximity should be such as to create a clear nexus between the act of instigation and the act of suicide. As was held in the case of **Sanju @ Sanjay Singh Sengar** (supra), if the deceased had taken the words of the appellants seriously, a time gap between the two incidents would have given enough time to the deceased to think over and reflect on the matter. As such, a gap of over a month would be sufficient time to dissolve the nexus or the proximate link between the two acts.”

6 Here, the suicide is admitted or in a way not challenged, but to connect applicant No.2 to the crime there is no evidence. In fact, this aspect ought to have been considered by learned Additional Sessions Judge, Aurangabad while framing the charge in Sessions Case No.746/2019. At this stage of Section 227 of the Code of Criminal Procedure we will have to observe that as these stages, especially the stages under Sections 226, 227, 228 of the Code of Criminal Procedure are not adhered or observed by Sessions Judges and Additional Sessions Judges and, therefore, on many occasions unnecessarily certain accused persons are dragged to face the trial or further proceedings. Those provisions are not empty formalities. If the stage of Section 227 of the Code of Criminal Procedure would have been

observed in this case, then certainly applicant No.2 would have been discharged and, therefore, we say that this is a fit case, though the charge is framed, for exercise of our powers under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- i) Criminal Application stands partly allowed.
- ii) Criminal Application stands disposed of as withdrawn, after disinclination, as against applicant No.1) **Ashok Nagorao Jondhale**.
- iii) The proceedings in Sessions Case No.746/2019 pending before learned Additional Sessions Judge, Aurangabad arising out of First Information Report vide Crime No.90/2019 registered with Osmanpura Police Station, Aurangabad, for the offence punishable under Sections 306, 498-A read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant No.2) **Manorama w/o Harshraj Kharat** only.
- ii) Fees of the appointed Advocate is quantified at Rs.7,000/- (Rupees Seven Thousand only), to be paid by High Court Legal Services Sub Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)