

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.239 OF 2024

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Sharda Siddharth Shere & Anr.

... Applicants

V/s.

State of Maharashtra

... Respondent

Mr. Sharad Ghadge a/w Mr. Chinmay Sharma i/b

Mr. Vijay K. Shelar, for the applicant.

Mr. Sagar R. Shelar, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 11, 2025

P.C.:

1. By this Revision Application, the applicants, who are the original accused and members of the marital family of the deceased, have challenged the order passed by the Trial Court rejecting their application for discharge from offences punishable under Sections 498A and 306 of the Indian Penal Code.

2. The prosecution case, in brief, is that the FIR came to be registered on the complaint of Nitin Dharmaraj Darole, father of the deceased Sanjana. On the relevant day, the complainant was on duty between 6.30 a.m. to 1.30 p.m. During his duty hours, his son Rohan telephoned him and asked him to return home immediately. Acting upon this, the complainant left for home by local train. While travelling, and having reached Thane railway station, he received another phone call from Kurla informing him

that his daughter Sanjana was in a serious condition and asking him to come to Kurla railway police station at once. On reaching home, he narrated this to his family and then proceeded to Kurla railway police station. There he was informed by the police that Sanjana had met with a train accident and had succumbed to the injuries.

3. Thereafter, the complainant went to Rajawadi Hospital to identify the dead body of his daughter Sanjana. After confirming her identity, he informed his relatives and friends, who came to the hospital. The police registered the case accordingly. The complainant stated that Sanjana was employed at DIKI Port, Mumbai, since 2018. A neighbour of his elder daughter Snehal, one Rekha Gaikwad, had suggested a marriage proposal for Sanjana with Harshad alias Ajit Shere, a resident of Vikhroli, Mumbai. With the consent of both families, the marriage was performed on 19 May 2019. Harshad was employed as a driver with Zee Marathi News Channel and resided with his family at Kannamwar Nagar, Vikhroli. For the initial few months after marriage, the relationship appeared peaceful and Sanjana did not make any grievance. However, after about three months, harassment from her husband and in-laws allegedly started. The parents-in-law owned another house at Virar, while Sanjana and her husband resided at Vikhroli.

4. It is alleged that the in-laws demanded a monthly rent of Rs.5,000 from Sanjana and her husband. They appropriated her salary, and her mother-in-law is stated to have used the money for a luxurious lifestyle. Whenever Sanjana failed to fulfil their

demands, she was subjected to abuse and assault by her husband and in-laws. The mother-in-law would even enquire into Sanjana's menstrual cycle and insult her if the answers were not satisfactory. At Sanjana's insistence, her husband underwent medical tests regarding fertility, which initially he refused but later accepted. The reports revealed that he had certain medical problems. He was also mentally disturbed, addicted to liquor, and would often beat Sanjana, causing her stress and distress.

5. On 5 May 2021, Sanjana's husband telephoned her mother requesting that her father come to their house as he wished to disclose some matters. Accordingly, the complainant went there, where Harshad showed him certain selfie photographs of Sanjana with her friends. Thereafter, Harshad went to Vikhroli Police Station. The complainant intervened between Harshad and Sanjana and then took Sanjana back to her parental home.

6. It is further alleged that on 7 May 2021, Sanjana informed her mother that she was going to her office. On that day, she met with a railway accident. Before the incident, she sent a message to her father at about 10.11 a.m. On the basis of that message and the subsequent incident, the FIR came to be lodged against the present applicants.

7. The learned Advocate for the applicants relied upon the judgment of the Supreme Court in *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618. In the said case, the Apex Court has explained the parameters for constituting an offence under Section 306 of the Indian Penal Code. It has been observed that

instigation means to goad, provoke, incite, urge forward or encourage a person to do a particular act. For satisfying the requirement of instigation, it is not necessary that express words must be used or that the act of instigation must directly suggest the final consequence. What is essential is that a reasonable certainty to incite the act of suicide must be discernible from the facts and circumstances.

8. Learned counsel invited my attention to the statements of witnesses and submitted that the essential ingredients of Section 306 IPC are not satisfied in the present case. According to him, Section 306 requires a clear and positive act of instigation or abetment on the part of the accused. Such act must be proximate in nature to the incident of suicide, and the circumstances must be such that the victim was left with no option except to end her life. He contended that the material presently on record does not disclose such circumstances, and therefore continuation of proceedings under Section 306 IPC is not justified.

9. Insofar as the offence under Section 498A IPC is concerned, it was submitted that the material on record does not satisfy the statutory requirements of the said provision. The allegations levelled are vague and omnibus in nature, without attributing any specific act of cruelty or harassment to the applicants. On this ground also, it was urged that continuation of prosecution under Section 498A IPC is unwarranted.

10. On the other hand, the learned APP opposed the Revision Application. It was argued that the material on record discloses

continuous harassment at the hands of the applicants, which allegedly drove the victim to commit suicide. It was further submitted that the material on record reflects positive acts attributable to the applicants, sufficient to create a strong suspicion about their involvement. According to the prosecution, this is enough to justify continuation of the proceedings. Therefore, it was submitted that the application seeking discharge is devoid of merit and deserves to be rejected.

11. Having considered the rival submissions and on perusal of the material on record, I proceed to examine the offence under Section 306 of the Indian Penal Code. To attract Section 306, there must be a positive act of instigation, abetment, or intentional aid on the part of the accused, which is proximate to the act of suicide. The Supreme Court in *Ramesh Kumar (Supra)*, as well as in subsequent cases such as *M. Arjunan v. State of Tamil Nadu*, (2019) 3 SCC 315, has held that mere allegations of harassment or cruelty, without a direct and proximate link showing that the accused instigated or abetted the act of suicide, would not be sufficient to bring home the charge under Section 306 IPC.

12. In the present case, the allegations made against the applicants primarily relate to harassment and ill-treatment on account of monetary demands and domestic discord. The prosecution has not pointed out any material to show that there was a direct act of instigation or abetment by the applicants, immediately preceding the unfortunate incident of suicide. The message allegedly sent by the deceased prior to the incident does not reveal that the accused had provoked or incited her in such a

manner that she was left with no alternative but to commit suicide. The allegations, even if accepted at their face value, do not satisfy the essential ingredients of Section 306 IPC. In absence of such material, continuation of prosecution under Section 306 IPC would amount to abuse of process. Hence, the applicants are entitled to discharge from the said offence.

13. However, insofar as the offence under Section 498A IPC is concerned, the position stands on a different footing. Section 498A penalises cruelty by the husband or his relatives. The definition of cruelty under the Explanation to Section 498A is wide enough to cover both physical and mental cruelty. The statements of the complainant and other witnesses disclose allegations of continuous harassment on account of monetary demands, appropriation of the salary of the deceased, insulting behaviour relating to fertility issues, and physical assaults. These allegations, if taken at face value, do make out a prima facie case of cruelty within the meaning of Section 498A IPC.

14. At the stage of considering discharge, the Court is not expected to conduct a meticulous appreciation of evidence. The test is whether, on the basis of the material placed on record, there exists sufficient ground to proceed against the accused. In my considered view, the material on record, though insufficient to sustain the charge under Section 306 IPC, does disclose sufficient ground for proceeding against the applicants for the offence under Section 498A IPC.

15. Accordingly, the application is partly allowed. The applicants are discharged from the offence punishable under Section 306 IPC. However, the prayer for discharge from the offence punishable under Section 498A IPC is rejected, and the Trial Court shall proceed with the trial to that extent.

(AMIT BORKAR, J.)