

Ashish

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

CRIMINAL REVISION APPLICATION NO. 352 OF 2024

Shankar Nama Padwal and ors	... Applicants
V/s.	
State of Maharashtra	... Respondent

Mr. Gaurav Parkar for the applicants.

Mrs. Rajashree Newton, APP for respondent – State.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 1, 2025

P.C.:

1. By this application, the applicants challenge the order dated 28 May 2024 passed by the learned Additional Sessions Judge, rejecting their application below Exhibit A, seeking discharge under Section 227 of the Code of Criminal Procedure, 1973, for offences punishable under Sections 306 and 34 of the Indian Penal Code.

2. The prosecution case, in brief, is that the grandmother of the informant was married to one Govind Mahadu Shelke. From that marriage, the father of the informant was born. After the death of Govind, the grandmother remarried Nama Hari Padwal, and from this marriage, applicant no.1 was born. Applicants no.2 and 3 are the sons of applicant no.1. The grandfather of the informant was the owner of two plots of land bearing Plot Nos. 17/2 and 6/16. After his death, the name of the grandmother of the informant,

Janabai Shelke @ Padwal, was entered in the 7/12 extract records. The grandmother of the informant passed away in the year 1990. After her death, the name of her husband, Nama Hari Padwal, was entered in the 7/12 extracts. Nama Padwal passed away in the year 1993, and thereafter the names of applicant no.1 and his siblings were entered in the revenue record.

3. The name of the deceased, who was the first-born son of Janabai, was not entered in the 7/12 extracts. The deceased, therefore, approached the applicants requesting that his name be included. The applicants agreed to his request. However, since the deceased was facing financial difficulty, he could not bear the expenses for mutation entry, and hence his name was not added in the record. Despite this, the deceased was cultivating the land for the last 30 years. During this period, there was no dispute between the families of the applicants and the deceased regarding the property. However, about a year prior to the incident, minor disputes arose between the parties over the land. On 30 May 2021, applicant no.1 attempted to carry out the mapping of the plots. The informant, upon learning of this, questioned applicant no.1, leading to an altercation.

4. On 8 June 2021, while the deceased was working in the field, applicants no.2 and 3 allegedly assaulted him with fists and kicks. The wife of the informant lodged a complaint with Neral Police Station. Applicant no.2 also lodged a complaint against the informant and his family. The dispute being property-related, the parties amicably settled their quarrel. However, on 10 June 2021, when the deceased was cleaning the floor of his house, applicants

no.2 and 3 allegedly taunted him while passing by. On 18 June 2021, the deceased called his wife and told her that he had consumed pesticide. The informant and his wife immediately took him to Civil Hospital, Kalamb. After initial treatment of about 30 minutes, he was referred to MGM Hospital for further treatment. While undergoing treatment, the deceased died on 20 June 2021. Thereafter, the informant approached Neral Police Station and alleged that the deceased consumed pesticide as he was frustrated by the constant disputes and harassment from the applicants. The FIR came to be lodged on 12 August 2021 for offences punishable under Sections 306 and 34 of IPC.

5. The learned counsel for the applicants submitted that, even accepting the prosecution case, the ingredients of Section 306 IPC are not made out. He argued that the land dispute was wrongly perceived by the deceased as harassment, which cannot amount to abetment to suicide. He submitted that there was neither instigation nor any circumstance created by the applicants which left the deceased with no other choice but to commit suicide. He further pointed out that the quarrel dated 8 June 2021 was amicably resolved. He, therefore, urged that the applicants be discharged.

6. On the other hand, the learned APP opposed the application. He submitted that the material on record shows that the applicants constantly harassed the deceased on account of the land dispute, which left him with no option but to take his life. According to the prosecution, the deceased was under constant stress due to the land dispute and the conduct of the applicants. This ultimately

drove him to commit suicide. It is, therefore, submitted that the offence under Section 306 read with Section 34 IPC is made out and the application for discharge deserves to be rejected.

7. I have considered the rival submissions and perused the material placed on record. The scope of consideration under Section 227 of the Code of Criminal Procedure is limited. At this stage, the Court is required to see whether there is sufficient ground to proceed against the accused.

8. To attract Section 306 of IPC, there must be a clear act of abetment as defined under Section 107 of IPC. Abetment may be by instigation, by conspiracy, or by intentional aid. Mere quarrels, disputes, or strained relations do not by themselves constitute abetment unless there is material to show that the accused intentionally provoked or compelled the deceased to commit suicide.

9. The Supreme Court in *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618, has held that unless there is a positive act of instigation or aiding, a conviction under Section 306 IPC cannot stand. Similarly, in *Madan Mohan Singh v. State of Gujarat*, (2010) 8 SCC 628, it has been held that mere harassment or ordinary quarrels without any mens rea to drive the person to suicide will not amount to abetment.

10. In the present case, the allegations reveal that the dispute between the parties was essentially over ancestral land and mutation entries in the revenue records. The deceased was cultivating the land for decades without obstruction. It is not in

dispute that there were occasional quarrels between the families. The incident dated 8 June 2021 was admittedly settled amicably. The allegations of taunts on 10 June 2021 are vague and general.

11. There is no material to suggest that the applicants either instigated or intentionally aided the deceased to commit suicide. The deceased appears to have taken the extreme step due to his own perception of harassment arising from a property dispute. Such perception, without any positive act of instigation or intention on the part of the accused, does not satisfy the ingredients of Section 306 IPC.

12. It is also material to note that the FIR was lodged almost two months after the incident. The delay in registration of FIR is not explained satisfactorily. This delay adds to the doubt whether the allegations of harassment were in fact proximate to the act of suicide.

13. Thus, taking the material on record at its face value, it does not disclose the offence punishable under Section 306 read with Section 34 of IPC against the applicants. Continuation of criminal proceedings in such circumstances would amount to abuse of the process of law.

14. Hence, the applicants are entitled to be discharged.

(i) The Criminal Application is allowed.

(ii) The order dated 28 May 2024 passed by the learned Additional Sessions Judge rejecting the discharge application is set aside.

(iii) The applicants are discharged from Special Case No. 59 of 2022 rising out of FIR No. 0161 of 2021, registered with Neral Police Station, for offences punishable under Sections 306 and 34 of the Indian Penal Code, 1860.

(iv) Application is disposed of accordingly.

15. The revision application is disposed of.

(AMIT BORKAR, J.)