



Judgment

apl931.23

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION [APL] Nos. 931 & 656 OF 2023.

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CRIMINAL APPLICATION [APL] NO.931/2023.

Ajay s/o Arun Padmakar,
Age 33 years, Occupation – Private,
resident of H.N.803, Nandagiri Road,
In front of Mahadev Mandir,
Panchpaoli, Mochipura,
Nagpur.

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APPLICANT.

VERSUS

1.State of Maharashtra,
through P.S.O. Shanti Nagar,
Nagpur.

2.Vivek s/o Dilipsingh Bharadwaj,
Aged about 30 years, Occupation -
Private, Resident of House No.861,
Prem Nagar, Zenda Square, Shanti Nagar,
Nagpur.

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NON-APPLICANTS.

Mr. A.G. Hunge, Advocate for the Applicant.
Ms S. Haider, A.P.P. for Non-applicant No.1.
Ms A.S. Mishrikotkar, Advocate (Appointed) for Non-applicant No.2.

WITH

Rgd.

CRIMINAL APPLICATION [APL] NO.656/2023.

Sau. Sumitra w/o Arun Padmakar,
Age 54 years, Occupation – Housewife,
resident of H.N.803, Nandagiri Road,
In front of Mahadev Mandir,
Panchpaoli, Mochipura,
Nagpur.

... **APPLICANT.**

VERSUS

1.State of Maharashtra,
through P.S.O. Shanti Nagar,
Nagpur.

2.Vivek s/o Dilipsingh Bharadwaj,
Aged about 30 years, Occupation -
Private, Resident of House No.861,
Prem Nagar, Zenda Square, Shanti Nagar,
Nagpur.

... **NON-APPLICANTS.**

Mr. A.G. Hunge, Advocate for the Applicant.
Ms S. Haider, A.P.P. for Non-applicant No.1.
Ms S. Saware, Advocate (Appointed) for Non-applicant No.2.

CORAM : ANIL L. PANSARE AND
M. M. NERLIKAR, JJ

DATE : AUGUST 20, 2025.

ORAL JUDGMENT (Per Anil L. Pansare, J) :

Heard. Issue Rule, returnable forthwith. Ms S. Haider,

Rgd.

learned A.P.P. waives service for Non-applicant No.1 in both the matters and Ms A.S. Mishrikotkar, Advocate (Appointed) waives service for Non-applicant no.2 in Criminal Application No.931/2023, while Ms S. Saware, Advocate (Appointed) for the Non-applicant no.2 in Criminal Application No.656/2023 waives notice.

2. Grievance in both applications is identical and therefore, they are being decided by this common order.

3. The applicant in Criminal Application No.931/2023 is husband of sister of non-applicant no.2 namely Diksha, while the applicant in another application i.e. Criminal Application No.656/2023 is her mother-in-law.

4. We have gone through the first information report, which indicates that the applicant Ajay and deceased Diksha were in relationship. Both had performed marriage without taking into confidence Ajay's mother [applicant in Criminal Application No.656/2023]. After marriage, Ajay's mother did not allow Diksha to reside in the matrimonial house, therefore, Diksha went to her

paternal house and started residing there. Ajay used to meet her. Initially both had cordial relation, but, later on Ajay started taking up quarrels and on 07.12.2022 obtained divorce, however, they used to meet even after divorce.

5. On 31.01.2023 the informant/ non-applicant no.2 along with his mother approached the applicants with a request to re-marry Diksha, however, Ajay and his mother took up quarrel and refused the proposal. On 05.02.2022, Diksha committed suicide. She had written a note in the diary that Ajay and his mother are not ready for her marriage.

6. The contention of the informant is that the aforesaid fact led Diksha to take the extreme step.

7. It is unfortunate that a precious life is lost. It will be however equally unfortunate to prosecute the applicant- Ajay and his mother for abetting suicide. It is nobody's case that applicants have created such circumstances that Diksha had no other alternative, but, to commit suicide. Further nothing is on record to indicate that

applicants had any intention to see that Diksha should commit suicide.

8. The Hon'ble Supreme Court in case of **Nipun Aneja and others .vrs. State of Uttar Pradesh [2024 SCC Online SC 4091]** held that for an act to constitute abetment of suicide, there must be direct or indirect act of incitement, instigation or aid that creates a situation where the deceased pursues no other option but to commit suicide. The Court further held that merely humiliating or harassing the deceased, without evidence of active instigation or a clear intention to induce the act, does not suffice to establish abetment.

9. If the aforesaid principles of law are applied to the facts of present case, we do not find any direct or indirect act of incitement at the hands of applicants, nor is their evidence of active instigation. Thus, the offence under Section 306 of the Indian Penal Code is not made out, even if prosecution's case is accepted to be true.

10. In the circumstances, continuation of prosecution will

amount to abuse of process of law. This is thus a fit case where inherent jurisdiction can be invoked. Accordingly we allow the applications. The First Information Report No.40/2023 registered with Shanti Nagar Police Station, Nagpur on 07.02.2023 for the offence punishable under Sections 306, 504 read with Section 34 of the Indian Penal Code is hereby quashed and set aside.

11. Rule is made absolute in aforesaid terms.
12. Pending Misc. Applications, if any, also stand disposed of.
13. Fees of the appointed Counsel be quantified and paid as per Rules.

JUDGE

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