



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

CRIMINAL WRIT PETITION NO. 691 OF 2024

Raju Nathauli

Vs.

State of Maharashtra, through Police Inspector, PS Kalmeshwar, Nagpur & Anr.

WITH

CRIMINAL WRIT PETITION NO. 693 OF 2024

Rambahadur Singh S/o. Gendalal Singh

Vs.

State of Maharashtra, through Police Inspector, PS Kalmeshwar, Nagpur & Anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.M. Sudame, Counsel with Mr. A.A. Potnis, Counsel for the
Petitioners in both petitions.

Ms. S.S. Jachak, APP for Respondent No.1/State.

Mr. R.L. Kadu, Counsel for Respondent No.2.

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

ARGUMENTS WERE HEARD ON : 7th AUGUST, 2025.

ORDER IS PRONOUNCED ON : 14th AUGUST, 2025.

Heard Mr. A.M. Sudame, learned counsel for the
petitioners, Ms. S.S. Jachak, learned A.P.P. for respondent
No.1/State, and Mr. R.L. Kadu, learned counsel for respondent
No.2.

2. By two different petitions, the petitioners are
seeking to quash First Information Report registered against
them *vide* Crime No.387/2024 for the offence under Section
306 read with Section 34 of the Indian Penal Code, 1860. Their
driver has committed suicide and they are blamed of abetting
it.

3. The petitioners are involved in the transport business and provide trucks for transportation. The deceased was serving as driver in the said business. According to the petitioners, the deceased was addicted to liquor and was responsible for one accident. He has allegedly, in the month of May, 2024, set on fire a truck bearing registration No.DL01LB6164, owned by the petitioners. The petitioners have allegedly lodged the first information report of the incident. Later on, the deceased committed suicide. This story is, however, not responsible for committing suicide.

4. The grievance of the deceased was that he was not paid monthly salary in full. His children were starving for food. He blamed the petitioners for such status and was constrained to take extreme step to end his life. Thus the case appears to be of inability of the deceased to sustain the financial crisis.

5. It is unfortunate that a precious life has lost. The question, however, is whether the petitioners have abetted the offence. Neither in the First Information Report nor in the statement of the wife of deceased and even in the suicide note, we find that there is any allegation that would indicate that while not paying salary in time or in paying salary in part, intention of the petitioners was to instigate the deceased to commit suicide.

6. The learned counsel for the petitioners has relied on the judgment of the Hon'ble Supreme Court in the case of *Amalendu Pal alias Jhantu Vs. State of West Bengal [(2010 1*

SCC 707], wherein after taking stock of earlier judgments, the Supreme Court reiterated that while acts of cruelty, including physical and mental harassment, can establish liability under Section 498A of the IPC, there must be clear and direct or proximate evidence demonstrating that the accused actively instigated or facilitated the victim's suicide to hold them liable under Section 306 of the IPC for abetment of suicide.

7. In the case of ***Nipun Aneja and others Vs. State of Uttar Pradesh [2024 SCC OnLine SC 4091]***, the Hon'ble Supreme Court held that for an act to constitute abetment of suicide there must be proof of direct or indirect acts of incitement, instigation or aid that creates a situation, where the deceased perceives no other option but to commit suicide. The Hon'ble Supreme 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.

8. Despite such position of law, we come across various cases where merely on the ground of harassment or where the deceased is unable to sustain the pressure, commits suicide and charge-sheet is filed against the persons like the petitioners.

9. In context with above, we enquired with the learned A.P.P as to why was charge-sheet filed in the present case to which the learned A.P.P. invited our attention to the statement of the wife of deceased. She stated that her husband was employed for a monthly salary of Rs.15,000/-, but the

petitioners never paid entire salary. They used to pay amount ranging from Rs.2,000/- to Rs.6,000/- per month and never received more than Rs.6,000/- per month. When enquired by the wife, he stated that the petitioners are not paying him the monthly salary and therefore he was worried as to how he will feed his children and maintain the family. The learned A.P.P. further submits that the suicide note itself indicates that the children of deceased were starving, which the petitioners could not endure. This is the reason why, according to learned A.P.P, charge-sheet was filed.

10. We find these submissions to be an attempt to some how justify filing charge-sheet. When we enquired as to why was charge-sheet filed, the obvious reason was whether the ingredients of Section 306 of IPC are attracted. The learned A.P.P., instead of focusing on ingredients of Section 306 of IPC, has pointed out the sufferings of the deceased that provoked him to commit suicide. What was expected, was a fair statement.

11. Here we would invite the attention of the learned A.P.P. to the judgment of the Hon'ble Supreme Court in the case of ***Shiv Kumar Vs. Hukam Chand and another [(1999) 7 SCC 467]*** to remind her of the duties of the Public Prosecutor. The Supreme Court on this point observed as under:

“13. From the scheme of the Code the legislative intention is manifestly clear that prosecution in a Sessions Court cannot be conducted by anyone other than the Public Prosecutor. The legislature reminds the State that the policy must strictly conform to fairness in

the trial of an accused in a Sessions Court. A Public Prosecutor is not expected to show a thirst to reach the case in the conviction of the accused somehow or the other irrespective of the true facts involved in the case. The expected attitude of the Public Prosecutor while conducting prosecution must be couched in fairness not only to the court and to the investigating agencies but to the accused as well. If an accused is entitled to any legitimate benefit during trial the Public Prosecutor should not scuttle/conceal it. On the contrary, it is the duty of the Public Prosecutor to winch it to the fore and make it available to the accused. Even if the defence counsel overlooked it, Public Prosecutor has the added responsibility to bring it to the notice of the court if it comes to his knowledge. A private counsel, if allowed free hand to conduct prosecution would focus on bringing the case to conviction even if it is not a fit case to be so convicted. That is the reason why Parliament applied a bridle on him and subjected his role strictly to the instructions given by the Public Prosecutor.”

Thus what is expected is fairness in the prosecution. The fairness has to be not only to the Court and to the investigating agency but also to the accused. If an accused is entitled to any legitimate benefit, the Public Prosecutor should not scuttle/conceal it, rather it is the duty of the Public Prosecutor to winch it to the fore and make it available to the accused. The Public Prosecutor is not expected to show a thirst to reach the case in the conviction irrespective of the true facts involved in the case.

12. In the present case, the Investigating Officer and all concerned were well aware of the fact that the case as reported by the respondent No.2, even if accepted on the face value, the ingredients of abetment to suicide were not attracted. The

approach of the learned A.P.P. was to justify filing charge-sheet, whether or not the offence is made out. The Public Prosecutors are not supposed to be mouthpiece of the Investigating Officer. We have, however, cited the above judgment with hope and expectation that henceforth the Public Prosecutors shall show fair approach in the proceedings.

13. Coming back to the merits of the case, as stated earlier, even if the FIR, suicide note and the statement of the wife of deceased is accepted to be true, what comes to fore is an unfortunate incident of someone committing suicide for his inability to face the challenges in the life. There is nothing on record that would indicate that the petitioners had any intention to create an atmosphere so that the deceased will be left with no other alternative but to commit suicide. Thus the ingredients of abetment are absent. The petitioners' business policy of making part payment of salary may not be befitting ethical standards, but then we are not aware as to why was entire salary not paid to the deceased. The fact, however, remains that they never intended to see that deceased will put an end to his life. In the circumstances, the legal representatives of the deceased may be entitled for compensation but cannot attribute culpability to the petitioners.

14. That being so, continuation of prosecution against the petitioners will only amount to abuse of process of law. This is, therefore, a fit case to invoke jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

15. Accordingly, the petitions are allowed. First Information Report No.387/2024 dated 26/05/2024, registered with Police Station Kalmeshwar, Nagpur, for the offence punishable under Section 306 read with Section 34 of the IPC, is quashed and set aside. In sequel, the Charge-sheet No.56/2025 dated 06/03/2025, pending before the Judicial Magistrate First Class, Kalmeshwar, Nagpur, is quashed and set aside.

(M. M. NERLIKAR, J.)

(ANIL L. PANSARE, J.)

Vijaykumar