

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1082 OF 2025

- 1) Santosh s/o Baburao Sonawane,
Age: 47 years, Occu: Agri. & Contractor,
- 2) Prabhakar s/o Baburao Sonawane,
Age: 62 years, Occu: Agri. & Contractor,
- 3) Sagar s/o Samadhan Guruchal,
Age: 36 years, Occu: Service.

All R/o Fekari, Tq. Bhusawal,
District Jalgaon.

..Petitioners

VERSUS

- 1) The State of Maharashtra,
Through : Assistant Police Inspector
Nimbora Police Station, Nimbhora,
Tq. Bhusawal, Dist. Jalgaon.
- 2) Rupali Chetan Tayade,
Age: 28 years, Occu: Household,
R/o. Mangalwadi, Tq. Raver,
District Jalgaon.

..Respondents

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Mr. U.S. Malte, Advocate for Petitioners.
Ms. R.R. Tandale, AGP for Respondent/State.
Ms. Pratiksha Magar, Mr. H.D. More, Advocate for Respondent No.2.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : MARCH 23, 2026

FINAL ORDER :-

1. Present writ petition is filed with following prayers :

“(B) The Hon'ble Court by exercising its power U/Sec. 528, 529 of B.N.S.S., 2023 r/w Article 226 and 227 of the Constitution of India, by issuing appropriate orders, writ, may kindly quash the F.I.R. Crime No.141/2024 for the

offence punishable U/s 108, 352 r/w 3 (5) of Bharatiya Nyaya Sanhita, 2023 filed against the petitioners on 30.7.2024 and further proceedings S.C. No.17 of 2025 pending before the Ld. Sessions Court, Bhusawal, Dist. Jalgaon.

(B1) This Hon'ble Court by exercising its powers U/Sec.528, 529 of B.N.S.S., 2023 and Article 226 & 227 of the Constitution of India, by issuing appropriate orders, Writ may kindly quashed & set aside the impugned orders dated 04.01.2025 & Committal Order dated 05.02.2025 passed by the Ld. J.M.F.C. Raver, Dist. Jalgaon, below Exh.1 in R.C.C. No.189/2024, & Summoning of accused &/or keeping the case for framing of the Charge by the Ld. District Judge-2 & A.S.J. Bhusawal, Dist. Jalgaon in Session Case No. 17 of 2025."

2. The investigation was set in motion on the basis of information given by Rupali Chetan Tayade stating that her husband Chetan was employed as Sweeper at Thermal Power Station, Bhusawal. Since last 4 to 5 months, Contractor namely Santosh Sonawane and his brother Prabhakar Sonawane had asked Chetan not to attend the work. The Chetan had told informant that contractors are troubling him. Later on, Chetan met with contractors. They told that they are going to issue notice to him. Chetan warned them that he will complaint against them to Chief Engineer. They responded that they would never permit him to work and driven him out of premises and also withdrawn his gate pass. Despite persuasion by Chetan to permit him to resume work, Contractor Santosh and his

brother did not allow him. On other day, Chetan met Sagar Guruchal (Supervisor). He agreed to create new gate pass for Chetan. However, inspite of persuasion by Chetan, gate pass was never given to him. On 18.07.2024, Chetan met Santosh, Prabhakar and Sagar, however, they opposed him and refused to take him on job. On 25.07.2024 at about 12 noon, Chetan consumed poison. When he was asked reason, he told that since he has been removed from job and troubled by accused persons, he had consumed poison. On 29.07.2024, Chetan lost his life while he was under medical supervision at Jalgaon Civil Hospital. The aforesaid information culminated into registration of Crime No.141 of 2024 for offence punishable under Section 108, 352 , 3(5) of Bharatiya Nyaya Sanhita, 2023 against petitioners. The investigation progressed. The petitioners were enlarged on pre-arrest bail by order of Sessions Court. On completion of investigation, charge sheet came to be filed and presently, Sessions Case No.17 of 2025 is pending at Sessions Court at Bhusawal.

3. Mr. Malte, learned advocate appearing for petitioners submits that contents of FIR or charge sheet does not disclose ingredients of alleged offence under Section 108, 352, 3(5) of Bharatiya Nyaya Sanhita, 2023. He would submit that there is no material to show that petitioners had intentionally threatened or harassed deceased with a view that he should commit suicide. The assumption that deceased was not allowed to resume duty or notices

were issued to him for his repeated and habitual absenteeism, case of abetment to commit suicide cannot be made out. He would submit that continuation of prosecution against petitioners would be abuse of process of law and, therefore, in light of principles of law laid down in case of *State of Haryana and Others Vs. Ch. Bhajan Lal and Others* reported in *AIR 1992 SC 604*, this is a fit case to exercise inherent powers.

4. Per contra, Ms. Tandale, learned AGP and Ms. Magar and Mr. More, learned advocates appearing for respondent no.2 vehemently opposes petition. They would submit that deceased was continuously harassed by petitioners. In result, he took drastic step to end his life.

5. Having considered submissions advanced by learned advocates appearing for respective parties and after going through FIR and material in charge sheet, it can be observed that deceased Chetan was employed on contract basis on establishment of Thermal Power Station. He was removed from work by petitioners/contractors. Thereafter, he was jobless. He was pursuing petitioners to permit him to resume duty. Deceased Chetan had complained to Chief Engineer, however, petitioners/contractors had withdrawn his gate pass and did not permit him to resume duties. It is alleged that petitioners told him that they would not allow him to join work even if he brings recommendation from Chief Engineer. The evidence on record shows

that deceased was served with show cause notice for his absence during period from 10.11.2023 to 05.12.2023. He had submitted his explanation for his absence and also assumed that he would not repeat such mistakes again. The aforesaid circumstances clearly depicts that it was typical dispute between employer and workmen. The deceased was serving on the post of sweeper on contract basis. He was absented from duties without prior intimation. The contractors had given show cause notice which was replied by deceased. However, he was not reinstated in service. In light of aforesaid factual background, it is necessary to find out whether offences as alleged against petitioners can be made out. Section 45 of Bharatiya Nyaya Sanhita, 2023 defines abetment of a thing, which reads thus :

“A person abets the doing of a thing, who:

(a) instigates any person to do that thing; or

(b) engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(c) intentionally aids, by any act or illegal omission, the doing of that thing.”

6. Section 46 of Bharatiya Nyaya Sanhita, 2023 defines abettor which reads thus :

*“**Abettor** - A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law*

of committing an offence with the same intention or knowledge as that of the abettor.”

7. In case of ***S.S. Chheena Vs. Vijay Kumar Mahajan & Anr*** reported in ***(2010) 12 SCC 190***, the Hon’ble Supreme Court observed in para 25 as under :

“25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”

8. It is, therefore, crystal clear that to complete abetment as crime, there must be proof of direct or indirect act of incitement to commission of suicide. In case of suicide, mere allegation of harassment to deceased by accused persons would not suffice. Unless there is instigation/provocation on the part of accused that compels a person to commit suicide offence of abetment cannot be made out further. Such an action must be proximate to the time of occurrence of incident. In present case, what is discernible from contents of FIR and charge sheet that deceased, who was contractual employee was prohibited from attending his duties on pretext that he was absent

without leave. A show cause notice was served to deceased which was replied by him. His explanation was not upto the mark and he was not reinstated on work. There are allegations that on persuasion by deceased, he was insulted and his gate pass was also removed. Even assuming all such acts on part of petitioners/contractors had caused some harassment to deceased, it can never be termed as abetment or instigation to commit suicide in absence of *mens rea*.

9. In facts of case, it cannot be gathered that petitioners could have intention to drove deceased to commit suicide. The petitioners could have gain nothing by death of deceased. They were not happy with performance of deceased at workplace, eventually, they did not allow deceased to join duties. It would be unfair in facts of case to infer that petitioners have intentionally aided in committing suicide. It is difficult to hold that harassment meted to deceased had bring him to put an end to his life. The evidence on record shows that since 2023 onwards, deceased was out of service. Thereafter, he was pursuing for his reinstatement. The petitioners were not accepting his demand, ultimately, he committed suicide on 25.07.2024. It is, therefore, difficult to link act of accused with decision of deceased to suicide. There may be various reasons why a person takes a decision to end his life or human mind could be affected and react in myriad ways. Similar actions are dealt with

differently by different persons. There cannot be specific theorem or yardstick to estimate or assess the same.

10. Having taken overall view of principles enunciated by the Supreme Court, in the matter of appreciation of material, in the cases to make out offence of abetment to commit suicide, this Court in facts of present case holds that averments in FIR and material in charge sheet is bereft to make out case of abetment to commit suicide in terms of Section 47 r/w 108 of Bharatiya Nyaya Sanhita, 2023. Hence, case is made out to exercise inherent powers under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023.

11. In result, writ petition is allowed in terms of prayer clause (B) and (B-1).

(S.G. CHAPALGAONKAR, J.)