HC-KAR
NC: 2026:KHC:59900
CRL.P No. 3477 of 2021
CNR: KAHC010181922021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.3477 OF 2021

BETWEEN:

1. POOJA V. GAWANDE,
W/O. LATE SWAPNIL SALWAY,
AGED ABOUT 36 YEARS.

2. VIJAY BHAGWANTRAO GAWANDE,
S/O.BHAGWANTRAO GAWANDE,
AGED ABOUT 64 YEARS.

3. ACHALA VIJAY GAWANDE,
W/O VIJAY GAWANDE,
AGED ABOUT 49 YEARS.

ALL ARE R/AT FLAT NO.203,
NAVJEEVAN SHRUSHTI APARTMENT,
NEW TAPDIYA NAGAR,
AKOLA DISTRICT, MAHARASTRA.

ALSO RESIDING AT
C/O. BHAGWANTHRAO GAWANDE,
GAJANAN PALACE-1, FLAT NO.12,
PRASAD COLONY, JATHAR POTH,
UMARI PROPERTY, KOLA,
JATHERETH AKOLA,
MAHARASTRA.

...PETITIONERS

(BY SRI. NATARAJU T., ADVOCATE)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA,
   BY BELLANDUR POLICE STATION,
   BENGALURU,
   NOW REPRESENTED BY SPP,
   HIGH COURT BUILDING,
   BENGALURU-560001.

2. SRI. ANIL BHAURAO SALVE,
   S/O BHAURAO SALVE,
   AGED ABOUT 70 YEARS,
   R/O. 'B' WING, 7TH FLOOR,
   ASSETS EAST POINT SOCIETY,
   LANE NO.11, BHOGANAHALLI,
   BENGALURU-560103.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SMT. SHREYA S. KUMAR, ADVOCATE FOR
SRI. SIJI MALAYIL, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC PRAYING TO QUASH THE CHARGE SHEET IN C.C.NO.2513/2021 FOR THE OFFENCE PUNISHABLE UNDER SECTION 306 R/W SECTION 34 OF IPC, BEFORE THE COURT OF 41 A.C.M.M., BENGALURU AND ALLOW THIS PETITION.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CNR: KAHC010181922021

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard the learned counsel for the petitioners, the learned High Court Government Pleader appearing for respondent No.1/State and the learned counsel for respondent No.2/complainant.

2. The prayer sought in the petition is to quash the proceedings initiated against the petitioners for the offences punishable under Section 306 read with Section 34 of IPC in C.C.No.2513/2021.

3. The factual matrix of the case of the prosecution is that petitioner No.1 is the wife of the deceased and petitioner Nos.2 and 3 are the in-laws of the deceased. An allegation is made by the complainant in the belated complaint dated 12.06.2019 that his daughter-in-law/petitioner No.1 was constantly harassing his son demanding money in order to spend on her extravagant lifestyle. After marriage she never bothered to understand her husband’s needs and neither considered his requests.

That on 16.03.2019, his son Swapnil Salway went to his elder sister Dipti's house, located at Doddakannelli. As he was not feeling better and was uneasy, his sister Dipti carried a blood pressure test at home which revealed his BP was very high. Dipti then advised him to take some rest. In paragraph No.10 of the complaint it is alleged that on 30.03.2019, the son of the complainant told him that he and his wife were not in talking terms, but she had sent him a message in Whatsapp stating that her parents are coming to Bangalore on 30.03.2019. Further on that day i.e., on 30.03.2019, Pooja left the home around 11:45 a.m. without informing him about anything. In the evening, Swapnil called him again around 8:50 p.m. and told him that Pooja had not come back to home since morning and was not responding to his calls also. Further, while he was on call, he told him that Pooja and her parents seem to have arrived at the door and then disconnected the call. On next day i.e. on 31.03.2019, Swapnil again called him and told that his father-in-law was very arrogant and commanding and his threats continue even during his visit to Bangalore. He informed him that

Vijayrao Gawande, his wife Achala and daughter Pooja jointly confronted him vigorously and had not given him a chance to put up his side. That on 04.04.2019, at around 5:30 p.m., he came to know that his son passed away and he went and attended the cremation. The body of his son was brought by his daughter, son-in-law along with Pooja i.e., petitioner No.1 herein and her family including Pooja's mother, father and her brother. All the arrangements were being done by his son-in-law while flying from Bangalore to Pune and then to Ahmednagar. After their arrival, he was informed by his son-in-law that on 03.04.2019, at around 7:30 p.m., he got a call from Pooja who informed him that she found Swapnil dead in their house. Having stated so in the complaint, an allegation is made against the daughter-in-law and her parents and action is sought against them. This complaint was given on 14.06.2019. Based on this complaint, Crime No.183/2019 was registered for the offence punishable under Section 306 read with Section 34 of IPC. The police investigated the matter and filed the charge-sheet for the

offence punishable under Section 306 read with Section 34 of IPC.

4. The learned counsel for the petitioners would vehemently contend that the incident took place on 03.04.2019 and that on 04.04.2019, the statement was given by way of complaint before the respondent police by the daughter of respondent No.2 and she has categorically stated in her statement that the incident was accidental one and they don't have any doubt on anybody. After primary enquiry the police have also registered UDR No.14/2019 and closed the matter. But after lapse of 2½ months at the instance of respondent No.2 and his family members, the respondent police registered a case for the offence punishable under Section 306 read with Section 34 of IPC. The learned counsel would vehemently contend that on 16.05.2019, petitioner No.1 has issued a notice to the Manager, LIC of India, Pune Division, stating that she is entitled for the benefit as Class-I heir and about 21 policies stands in the name of her late husband, but the reply to the

said notice was issued by the LIC on 15.06.2019, which categorically discloses that respondent No.2 herein has already approached the LIC and made his claim along with all the documents in respect of 21 policies as nominee. If the allegations made in the complaint dated 14.06.2019 were true, respondent No.2 would have made the same complaint before respondent No.1 much prior to his claim before LIC. This complaint is offshoot of the claim made by petitioner No.1 for the death benefit of her husband. The learned counsel also vehemently contend that this complaint is filed afterthought with an intention to circumvent to part with the death benefit of husband of petitioner No.1. The learned counsel also would submit that the suit filed by the complainant in O.S.No.5084/2019 is pending before the Court. The learned counsel would vehemently contend that when the dispute arose between the parties with regard to the death benefit of the deceased, the present proceedings is initiated and it is nothing but an abuse of process. If really there were any grievances in respect of the death of the complainant's son, the complainant would have given the

complaint immediately. But when the claim was made by petitioner No.1 in respect of the death benefit, the present complaint is filed and the same amounts to an abuse of process and if the same is not quashed, it leads to miscarriage of justice.

5. Per contra, the learned counsel for respondent No.2/complainant would submit that a detailed complaint is filed. Though there is a delay of 2½ months in filing the complaint, but narration was made in the complaint that prior to taking the extreme step by the son of the complainant, he was subjected to harassment by petitioner No.1. In paragraph Nos.5, 6, 7, 10 and 11 of the complaint, specific allegations are made that he received a call from the deceased on 30.03.2019 and so also on 31.03.2019 and this material clearly discloses the invoking of ingredients of offence under Section 306 of IPC. The police have also investigated the matter and filed the charge-sheet. It is a matter of trial and the contention of the petitioners to quash the proceedings at this stage cannot be considered. The

learned counsel also relies upon the postmortem report, wherein it is mentioned that abrasions are bright red in colour and fresh. The cause of death is due to asphyxia as a result of hanging. The learned counsel also brought to the notice of this Court that in the vacating stay application, in support of the application affidavit is filed and in paragraph No.6, detailed averments are made and the same is in consonance with the contents of the complaint.

6. The learned High Court Government Pleader appearing for respondent No.1/State submits that the complaint contains specific averments with regard to the incidents dated 30.03.2019 and 31.03.2019, during which altercations had taken place between the deceased and his in-laws. The learned counsel submits that the Court has to take note of the statement of witnesses i.e., CW3 and CW4 regarding harassment. The police having investigated the matter, filed the charge-sheet.

7. Having heard the learned counsel appearing for the respective parties, this Court has to take note of the

contents of the complaint. Though the complaint is dated 12.06.2019, it was lodged with the police on 14.06.2019, wherein allegations of harassment and altercations that had taken place on 30.03.2019 and 31.03.2019 have been specifically mentioned. This Court has to take note of the fact that, though the incident occurred on 03.04.2019, no such allegations were made at that point of time. Even in the statement of CW3, which was recorded by the police on the very next day of the incident, no allegations of harassment or foul play were made. It is not in dispute that the deceased's wife and family members of the deceased attended the cremation. However, no grievance or allegation of harassment or foul play was raised by them at that time. The learned counsel for the petitioners brought to the notice of this Court that after 2½ months of the incident, the allegations are made and also brought to the notice of this Court that a e-mail was sent on 08.05.2019 from Deshmukh Abhay addressing the same to Siddarth, wherein also there is no any allegations of foul play. The learned counsel also brought to the notice of this Court that a notice was given to

the LIC on 16.05.2019 when the claim was made with the LIC for death benefits of the deceased and details are given with regard to 21 policies. The reply was given by the LIC on 15.06.2019 and in the meanwhile, the complainant had approached the LIC and objected for payment in favour of petitioner No.1 and thereafter, afterthought a complaint was filed making the allegation of harassment. In the reply given by the LIC, it is stated that there is a rival claim between petitioner No.1 and Mr. Anil Bhaurao Salway and directed to get the succession certificate from the competent authority/Court of law in her favour declaring that she being the widow of deceased policy holder Mr. Swapnil Anil Salway, is entitled to claim death amount under the above 21 policies. Hence, it is very clear that having issued the notice to the LIC to make the payment in her favour, rival claim was made by the father of the deceased and thereafter, lodged the complaint and dispute arisen between the parties almost after two months with regard to the monetary benefit and only afterthought having made the death benefit claim, the present complaint is filed.

8. It has to be noted that the complaint was filed belatedly and when the statement of CW3 was recorded immediately after the incident, no allegations of foul play or harassment were made. But while filing the charge-sheet, her statement was recorded with regard to the harassment. That statement is also afterthought and so also her husband is also cited as CW4 and he also made a hearsay statement. None of the witnesses speak with regard to the harassment, except the interested witnesses CW1 and CW2 and the same is also made subsequent to the filing of complaint afterthought after 2½ months of the incident i.e., after claim made by petitioner No.1 for death benefits. While invoking Section 306 of IPC, there must be a proximity to cause of death. No such incident was taken place on 03.04.2019 while committing the suicide. But in the complaint, afterthought reference was made that the complainant had received a call on 30.03.2019 and 31.03.2019 and no such allegations are made immediately after the death of the son. Hence, it is a clear case of abuse of process and when the monetary dispute was arisen between the family of the deceased and

petitioner No.1, a complaint is filed. If this Court fails to invoke Section 482 of Cr.P.C., it will lead to miscarriage of justice and hence, it is a fit case to exercise the power under Section 482 of Cr.P.C.

9. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed and the proceedings initiated against the petitioners in C.C.No.2513/2021 for the offence punishable under Section 306 read with Section 34 of IPC, is quashed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 33