



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

CRIMINAL APPLICATION (APL) NO. 293 OF 2013

Pramod Shriram Telgote,
aged about 49 years,
Occupation Service in ADCC
Bank, Akola as Senior Inspector,
R/o Ranpise Nagar, Akola, Tq.
and District Akola.

... APPLICANT

VERSUS

1. State of Maharashtra, through
its Police Station Officer,
Borgaon Manju, Police Station
Tq. and Distt. Akola.

2. Triveni Rupchand Sirsat,
aged about 43 years,
Occupation Household work,
R/o Apoti Khurd, Tq. and
Distt. Akola.

... NON-APPLICANTS

....
Shri Ayush Sharma, Advocate for the applicant.
Smt. M.H. Deshmukh, Additional Public Prosecutor for non-applicant No.1.
None for non-applicant No.2.

....
**CORAM : P.N. DESHMUKH AND
M.G. GIRATKAR, JJ.**
DATED : 04TH JULY, 2018.

ORAL JUDGMENT : (Per M.G. Giratkar, J.)

By way of present application, the applicant prays for quashing of
FIR lodged by non-applicant No.2 and registered by non-applicant No.1 for
the offence punishable under Section 306 read with Section 34 of the Indian
Penal Code.

2. It is submitted that one Rupchand Sirsat, aged about 54 years was working as a Group Secretary in Kherda-Mozari Co-operative Society. On 04.04.2013, Rupchand has committed suicide by consuming some poisonous substance at village Ghotra, Tq. Barshitakli, District Akola. He was in the employment of society. The primary duty of Rupchand was of disbursement of loan by the Co-operative Bank and to recover the same. He was in service since last 20 years. He left one suicide note dated 21.02.2013 and made allegations against the applicant and many other persons including MPs and MLAs.

3. After the commission of suicide by Rupchand, his wife non-applicant No.2 lodged report with non-applicant No.1. Along with report, she had given suicide note left by her deceased husband. On the basis of report and suicide note, Crime No. 51/2013 came to be registered for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code by Police Station, Borgaon Manju, District Akola. It is submitted that the applicant is nowhere concerned to abet the deceased for commission of suicide. Therefore, prayed to quash Crime No. 51/2013 registered by non-applicant No.1.

4. Heard Shri Ayush Sharma, learned Counsel appearing on behalf of the applicant and Smt. M.H. Deshmukh, learned Additional Public Prosecutor appearing on behalf of non-applicant No.1/State. None appears on behalf of non-applicant No.2.

5. From the perusal of report, it appears that non-applicant No.2 made allegation that the applicant and others mentally harassed her husband and, therefore, he has committed suicide on 04.04.2013. From the perusal of suicide note, it appears that it was addressed to Police Station Officer, Barshitakli. It is dated 21.02.2013. Thereafter, deceased applied for leave on 27.02.2013 and 01.04.2013, and on 04.04.2013, he has committed suicide. It appears from the leave applications, dated 27.02.2013 and 01.04.2013, his physical and mental condition was not good. He has written in his suicide note that his son had committed suicide. Therefore, he was mentally disturbed.

6. From the perusal of suicide note, it appears that applicant and others cannot be said to be abetted the deceased to commit suicide. Moreover, the suicide note is dated 21.02.2013. Deceased has committed suicide on 04.04.2013. Deceased has committed suicide after two months from the date of alleged suicide note. It appears from the contents of suicide note that he made allegations against many persons including MPs and MLAs.

7. If the report and suicide note taken as it is, then it is clear that applicant or others cannot be said to be abetted the deceased to commit suicide. He has stated in his report that, "one Mendhe and others obtained loan from District Cooperative Bank, Akola. Mendhe was insisting him to increase the number of cooperative societies. Because of the constant pressure of workload, he could not give attention in his household work and,

therefore, his son committed suicide.” It appears from the contents that the deceased was mentally disturbed because of the death of his son.

8. This Court in the case of ***Dilip Ramrao Shirasao and others .v. State of Maharashtra and another (Criminal Application No. 332 of 2016 decided on 05th August, 2016)***, has observed as under :-

“12. In order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 IPC. We are of the clear opinion that there is no question of there being any material for offence under Section 306 IPC either in the FIR or in the so-called suicide note.

28. 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 or 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.

21. No doubt that the judiciary has lost one of its

officers in any unfortunate incident. However, as held by the Hon'ble Supreme Court, the response of a person to a situation may differ from a person to person. A person, who is sensitive, may be hurt if the things do not happen as per his wish and may unfortunately commit an act, which leads to his death. No doubt, our all sympathies are with the family of the Judicial Officer, who lost his life in prime age. However, can that be said to be sufficient to prosecute the other Judicial Officers, for no fault of theirs. As already discussed hereinabove, except applicant No.1, there is no even whisper in the affidavit of the non-applicant No.2 insofar as the other applicants are concerned. Even the allegations against the applicant No.1 are with regard to discharge of his official duties. As pointed out hereinabove, it cannot also be a case of harassment inasmuch as the deceased was the junior most Judicial Officer in the cadre of Civil Judge Senior Division and transferring him out of the District headquarters to another place in the same district, cannot be said to be an act by the applicant No.1 causing harassment to the deceased. If the deceased had any grievance against his superiors, it was always open for him to approach the learned Guardian Judge of the District or Registry of this Court.”

9. From the contents of report, it appears that the deceased was mentally disturbed due to the death of his son. He has made allegations against the applicant and others two months before his suicide. Suicide Note is dated 21.02.2013. Thereafter, deceased proceeded on leave on 27.02.2013. Again he applied for leave on 01.04.2013. Letter issued by Barshitakli Cooperative Society dated 22.02.2013 shows that charge of the post of deceased was handed over to one Shinde. The reasons stated in the suicide

note are not sufficient to constitute the offence punishable under Section 306 of the Indian Penal Code. The applicant and other persons named in the suicide note cannot be said to be abetted the deceased to commit suicide. From the face value of the report itself, offence punishable under Section 306 of the Indian Penal Code is not made out. Hence, in view of the judgment of the Hon'ble Apex Court in the Case of **State of Haryana and others .v. Bhajanlal and others (reported in 1992 SCC (Cri) 426)**, crime registered against the applicant for the offence punishable under Section 306 of the Indian Penal Code is liable to be quashed and set aside.

10. Hence, we are inclined to allow the application in terms of prayer clause (A). We hereby quash and set aside FIR dated 06.04.2013 (Crime No. 51/2013) registered by PSO, Borgaon Manju, District Akola for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

Criminal Application stands disposed of accordingly.

JUDGE

JUDGE

*rrg.