

Non-Reportable

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 765 OF 2018

(Arising out of Special Leave Petition (Crl.) No.2600 of 2018)

Vajnath Kondiba Khandke

.....Appellant

Versus

State of Maharashtra and Another

..... Respondents

JUDGMENT

Uday Umesh Lalit, J.

Leave granted.

2. This appeal is directed against the judgment and order dated 23.01.2018 passed by the High Court of Judicature at Bombay, Bench at Aurangabad dismissing Criminal Application No.4724 of 2017 preferred by the appellant.

3. One Kishor Parashar serving in the office of the Deputy Director of Education Aurangabad, committed suicide on 08.08.2017 in his house. His wife made a complaint to the police that her husband was suffering from mental torture as his higher officers were getting heavy work done from her husband which required him to work from 10.00 am to 10.00 pm; that her husband would be called at odd hours and even on holidays to get the work done; that officer named Vaijnath Kondiba Khandke (the appellant) had stopped his salary for one month and was threatening her husband that his increment would be stopped; that one of the co-worker named Ghorpade Madam used to get her work done from her husband; that because of the pressure of work her husband used to remain silent and that these two persons were responsible for the suicide committed by her husband. Pursuant to the aforesaid reporting, FIR No.268 of 2017 dated 09.08.2017 was registered against the appellant and one Vidya Ghorpade under Sections 306, 506 read with Section 34 IPC with Police Station MIDC, CIDCO, Aurangabad.

4. The appellant as well as said Vidya Ghorpade filed Criminal Application Nos.4724 of 2017 and 5174 of 2017 respectively under Section 482 of Cr.P.C. seeking quashing of the aforesaid FIR. It was submitted that

the allegations in the FIR were absurd and inherently improbable and did not make out any case against the applicants. Around this time, the applications preferred by the applicants for anticipatory bail were accepted with certain conditions. The applications preferred under Section 482 Cr.P.C. were thereafter taken up for hearing. The High Court accepted the plea made by Vidya Ghorpade and quashed the proceedings against her. However, Criminal Application No.4724 of 2017 preferred by the appellant was dismissed by the High Court vide its judgment and order dated 23.01.2018 which is presently under appeal. It was observed:

“The facts herein indicate that, there was no direct abetment and the applicants cannot have any intention that the deceased should commit suicide. Even when the accused persons have no such intention, if they create situation causing tremendous mental tension so as to drive the person to commit suicide, they can be said to be instigating the accused to commit suicide.....”

5. In this appeal, we heard Mr. Shankar Chillarge, learned Advocate for the appellant and Ms. Deepa M. Kulkarni, learned Advocate for the State.

6. In *Madan Mohan Singh v. State of Gujarat and another*¹ the deceased was a driver who had undergone a bypass surgery and was advised against performing any stressful duties. The accused was a superior officer

¹ (2010) 8 SCC 628

who had rebuked the deceased harshly and threatened to suspend him when the deceased had failed to comply with his directions. The deceased thereafter committed suicide and left behind a suicide note stating that the accused was solely responsible for his death. In these facts, this Court held that there must be allegations to the effect that the accused had either instigated the deceased in some way to commit suicide or had engaged with some other person in conspiracy to do so or that the accused had in some way aided any act or illegal omission to bring about the suicide. The prayer for quashing preferred by the accused was accepted by this Court and the proceedings were quashed.

7. At the same time the facts in *Praveen Pradhan v. State of Uttarakhand and another*² show that a junior officer was allegedly compelled by the superior to indulge in several wrongful practices at the work place; the junior officer was not comfortable in complying with such orders, as a result of which the junior officer was harassed and insulted on regular intervals and disgraced in front of the staff of the entire factory and rebuked with comments such as “had there been any other person in his place he would have died by hanging himself.” The junior officer committed suicide leaving behind a note detailing all the incidents and

² (2012) 9 SCC 734

asserting against his superior. In these circumstances prayer for quashing was rejected by this Court.

8. In the backdrop of these two lines of cases, we have gone through the material on record. There is no suicide note left behind by the deceased and the only material on record is in the form of assertions made by his wife in her reporting to the police. It is true that if a situation is created deliberately so as to drive a person to commit suicide, there would be room for attracting Section 306 IPC. However, the facts on record in the present case are completely inadequate and insufficient. As a superior officer, if some work was assigned by the applicant to the deceased, merely on that count it cannot be said that there was any guilty mind or criminal intent. The exigencies of work and the situation may call for certain action on part of a superior including stopping of salary of a junior officer for a month. That action simplicitor cannot be considered to be a pointer against such superior officer. The allegations in the FIR are completely inadequate and do not satisfy the requirements under Section 306 IPC. In our view, the facts in the present case stand on a footing better than that in *Madan Mohan Singh* (supra) and there is absolutely no room for invoking provisions of Section 306 IPC. We

are of the firm view that the interest of justice demands that the proceedings initiated against the appellant are required to be quashed.

9. We, therefore, allow this appeal and quash criminal case lodged in pursuance of FIR No.268 of 2017 registered with Police Station MIDC, CIDCO, Aurangabad.

.....J.
(Arun Mishra)

.....J.
(Uday Umesh Lalit)

New Delhi,
May 17, 2018