

Dr. Vishwambar S/O Deoman Zadokar vs The State Of Maharashtra Through Pso ... on 27 August, 2024

2024:BHC-NAG:9610

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION (ABA) NO. 582 OF 2024

Dr. Vishwambar s/o Deoman Zadokar
Vs.
The State of Maharashtra, Through Police Station Officer, Jalamb,
District Buldhana

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

Mr. S. I. Ghatte, Advocate for applicant.
Mr. K. R. Lule, APP for non-applicant/State.

COR
DAT

1. Apprehended by police in custody of registered with Police Station Buldhana, for the offence punishable under Section 108 r/w Section 3(5) of the Bharatiya Sakshak Bill, 2023, the applicant approached for pre-arrest bail.

2. Heard and considered. The applicant submitted that the crime is registered on the basis of the report lodged by the wife of the deceased. The allegation that, there was money transaction between the present applicant and the deceased, the deceased has paid the amount to the present applicant and other co-accused, they have been released and therefore, the deceased was not able to pay the amount. The present applicant visited the

(2)

24.aba.582.2024

deceased and humiliated him in presence of the other staff and therefore, he felt insulted and he committed suicide. On the basis of the said report, police have

registered the crime against the present applicant.

3. He submitted that the mere allegation that though the deceased has paid the amount, the present applicant was demanding the additional amount and therefore, the deceased felt insulted and he committed suicide, is not sufficient to attract the provisions under Section 108 of the Bhartiya Nyaya Sanhita, 2023. He submitted that even accepting the allegation as it is, the custodial interrogation of the present applicant is not required. In view of that, interim protection granted to the present applicant deserves to be confirmed.

4. Learned APP strongly opposed the said application and submitted that there is detailed suicide note written by the deceased wherein the specific allegations are made against the present applicant. Thus, considering that the present applicant and other co-accused to whom he has already repaid the amount, but they were demanding the additional amount and the deceased fed up with the harassment at the hands of the present applicant and the other co-accused. Moreover, the present applicant and other co-accused visited the school of deceased, demanded money from him and humiliated him in presence of the other staff and therefore, he

(3) 24.aba.582.2024

felt insulted and committed suicide. Thus, the suicide note and the statements of the witnesses sufficiently show the involvement of the present applicant in the alleged offence. His custodial interrogation is required, in view of that, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and on perusal of the recitals of the FIR as well as the various statements of the witnesses, it reveals that it is alleged that there was a money transaction between the deceased and the present applicant. The deceased has obtained some amount from the present applicant. As per the suicide note, the deceased has already repaid the amount but the present applicant was demanding some additional amount and also said some persons in the school of the deceased wherein the deceased was serving as a Headmaster. The said persons insulted and humiliated the deceased and therefore, he committed suicide.

6. The statements of the witnesses are also recorded during the investigation. In view of the statements made by the various witnesses and the suicide note, the crime was registered against the present applicant under Section 108 of the Bhartiya Nyaya Sanhita, 2023 alleging that there was an abetment at the hands of the present applicant. As far as the old Section 306 of the Indian Penal Code (4) 24.aba.582.2024

which has been analyzed time and again by the Hon'ble Apex Court. The Hon'ble Apex Court in the case of Shabbir Hussain Vrs. State of Madhya Pradesh, reported in (2021) 17 SCC 807 wherein it is observed that the said offence the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide. The Hon'ble Apex Court further goes on to observe that mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 of Indian Penal Code.

7. At this stage, it would not be appropriate to observe that there was no ill-treatment or harassment at the hand of the present applicant, but considering the recitals of the suicidal note as well as the statement of the various witnesses, the present applicant was not present in the school wherein the other co-accused has visited. The custodial interrogation of the present applicant is not required as nothing is to be seized from him. In view of that, the interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(5)

24.aba.5

(ii) In the event of arrest in Crime

No.155/2024 registered with Police Station Jalamb, District - Buldhana, for the offence punishable under Sections 108 r/w Section 3(5) of the Bhartiya Nyaya Sanhita, 2023, the applicant Dr.

Vishwambar s/o Deoman Zadokar shall be released on anticipatory bail on executing PR Bond of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall attend the concerned Police Station once in a week on Sunday between 10:00 a.m. to 1:00 p.m. and shall cooperate with the investigating agency.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.) Sarkate Signed by: Mr. A.R. Sarkate Designation: PA To Honourable Judge Date: 28/08/2024 17:12:32