



AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1918 OF 2015

Milind Anantrao Parad ... Petitioner  
V/s.  
The State of Maharashtra ... Respondent

WITH  
WRIT PETITION NO.1919 OF 2015

Baby Shankar Jadhav ... Petitioner  
V/s.  
The State of Maharashtra ... Respondent

WITH  
WRIT PETITION NO.1921 OF 2015

Shamrao Damu Sable ... Petitioner  
V/s.  
The State of Maharashtra ... Respondent

WITH  
WRIT PETITION NO.1922 OF 2015

Sitaram Raghunath Jadhav ... Petitioner  
V/s.  
The State of Maharashtra ... Respondent

Mr. Lakshyaved R. Odhekar with Mr. Omkar N. Mhasde  
for the petitioner.

Mrs. Megha S. Bajoria, APP for the respondent-State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 8, 2026

PC.:

1. The present writ petitions arise out of Sessions Case No.47 of 2012, wherein the petitioner in each of the petitions stands

arraigned as an accused for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, on the allegation that he, along with other accused, abetted the commission of suicide of one Shivaji Bhaurao Gade, who was serving as a teacher in the same Ashram School. By way of these writ petitions, the petitioner seeks his discharge from the said proceedings and consequential quashing thereof, contending that there is no material on record which would justify the framing of charge against him. In furtherance of such contention, the petitioner had preferred an application under Section 227 of the Code of Criminal Procedure, 1973 on 8 May 2012. However, the learned Sessions Judge, by order dated 1 January 2014, was pleased to reject the said application.

2. The factual matrix giving rise to the present writ petitions, as projected by the petitioner, is required to be noted. It is the case of the prosecution that the petitioner, in concert with the co-accused, entered into a conspiracy to falsely implicate the deceased Shivaji Gade in relation to an incident dated 31 December 2010. It is stated that accused No.1 Milind Parad and accused No.3 Shamrao Damu Sabale were serving as teachers in the school. Accused Sanjaykumar Kisanrao Shinde, who was also a teacher, came to be discharged during the course of proceedings. Accused No.4 Babybai Shankar Jadhav was working as a cook in the Ashram School, while accused No.5 Sitaram Raghunath Jadhav is stated to be her brother. It is further the case of the prosecution that on the intervening night of 31 December 2010 and 1 January 2011, at about 2.30 a.m., the deceased had gone to the residence of

accused No.4, who was employed as a cook in the Ashram School, ostensibly for the purpose of drinking water. It is alleged that the accused persons took undue advantage of the said incident and, through accused No.4, caused a complaint to be lodged against the deceased alleging that he had made a demand for illicit relations. Pursuant to such complaint, a departmental inquiry was initiated under the provisions of the Maharashtra Employees of Private Schools Act. In the said inquiry, the deceased was held guilty of misconduct and was visited with the punishment of stoppage of increments. It is alleged that on account of the said departmental action and the humiliation suffered thereby, the deceased underwent severe mental distress, which ultimately led him to commit suicide on 24 February 2011.

3. The prosecution asserts that the act of lodging the complaint and the consequential findings recorded in the departmental inquiry amounted to abetment on the part of the accused, which drove the deceased to take the extreme step of committing suicide. On this basis, a First Information Report came to be lodged on 4 March 2011, that is, about ten days after the death of the deceased, at the instance of his wife, alleging that the suicide was the direct consequence of the humiliation suffered by the deceased due to the departmental inquiry and the punishment imposed upon him.

4. Mr. Odhekar, Learned Advocate appearing for the petitioner submitted that the judgment dated 10 December 2014 delivered by this Court in Criminal Writ Petition No.825 of 2014, whereby accused No.3 came to be discharged, arises out of the very same

First Information Report, charge-sheet and incident, and is therefore directly applicable to the present case. It is submitted that this Court, in the said judgment, undertook a detailed scrutiny of the entire prosecution case and recorded findings which are not confined to the individual accused therein but extend to all accused persons. It was observed that even the nature of death, whether suicidal or accidental, was not free from doubt. It was further held that even if the prosecution case is accepted in its entirety, the essential ingredients of Section 306 of the Indian Penal Code are not made out. This Court also found that the complaint lodged by accused No.4 cannot be termed as false or malicious, and that any alleged humiliation arising out of a departmental inquiry and punishment would not, in law, amount to abetment of suicide. Particular emphasis is placed on paragraph 21 of the said judgment, wherein this Court clearly held that such circumstances would not render even the other accused liable for prosecution under Section 306 of the Indian Penal Code. According to the learned counsel, these findings strike at the root of the prosecution case and operate against the very foundation of the charge-sheet. It is submitted that the role attributed to the present petitioner is identical to that of the accused already discharged, namely participation in a lawful departmental process without any act of instigation, intention, or proximate conduct leading to suicide. Once this Court has already held, on the same material, that prosecution under Section 306 is not sustainable, continuation of proceedings against the present petitioner would be impermissible in law. The said judgment is thus binding and

squarely applicable, entitling the petitioner to relief on the ground of parity.

5. Learned counsel further submitted that even upon a complete and detailed analysis of the charge-sheet, and assuming the prosecution case to be true in its entirety, no offence is made out against the accused. It is contended that the material on record clearly indicates that on 31 December 2010, after attending a New Year gathering, the deceased himself went to the house of accused No.4 at about 2.30 a.m., where he allegedly demanded illicit relations. It is submitted that upon such conduct, accused No.4 became frightened and left the house, and thereafter a complaint came to be lodged against the deceased. It is further pointed out that the charge-sheet itself reflects that the deceased subsequently admitted his misconduct and tendered an unconditional apology. In such circumstances, it is submitted that there is no material to suggest any false implication or fabrication, and the substratum of the prosecution case under Section 306 of the Indian Penal Code stands completely undermined.

6. It is further submitted that the charge-sheet contains consistent and independent material demonstrating the misconduct of the deceased. The statement of Bhaurao Govinda Ghongade indicates that on the night of 31 December 2010, the deceased was present at his residence watching television till about 12.30 a.m., after which he left. The said witness further states that on 15 February 2011, the deceased apologised for his conduct. This version is corroborated by several independent witnesses, namely Kisan Bhimaji Pawar, Machhindra Ekanath

Kakad, Yuvraj Vitthal Gabale, Vitthal Dhogade, Ramdas Hanumantha Dhangade, Bhagwanta Dharkar and Ramesh Bharmal, all of whom consistently state that the deceased admitted his misconduct and tendered a public apology to accused No.4 by touching her feet.

7. Learned counsel further relied upon the report of the Tanta Mukti Committee, which records that the deceased admitted his mistake and assured that such conduct would not be repeated in future. It is submitted that this document lends independent corroboration to the oral testimonies of the witnesses and establishes that the deceased accepted responsibility for his actions. Further reliance is placed on the statement of Bhanudas Langi, which assumes importance in demonstrating the voluntary conduct of the deceased. The said witness states that after 1.00 a.m. on the night in question, the deceased approached him stating that he was thirsty. When water was offered, the deceased declined and instead enquired about the location of the staff quarters. It is thereafter stated that at about 2.30 a.m., the deceased proceeded towards the house of accused No.4. The witness further states that no noise or commotion was heard from the said house. It is thus submitted that the conduct of the deceased clearly indicates that his visit was intentional.

8. It is further submitted that even assuming, for the sake of argument, that the death was suicidal, the settled legal position requires the prosecution to establish clear instigation, requisite mens rea and a proximate nexus between the conduct of the accused and the suicide. It is submitted that mere harassment or

humiliation, even if arising from a lawful departmental inquiry, would not constitute abetment in the absence of intention or reasonable foreseeability. Reliance is again placed on the judgment of this Court in Criminal Writ Petition No.825 of 2014 in support of this proposition.

9. In view of the aforesaid submissions, learned counsel prayed that the charges framed on 28 November 2016 be quashed and that the petitioner be discharged from Sessions Case No.47 of 2012

10. Per contra, the learned APP invited attention to the statements of witnesses to contend that several witnesses have stated that false imputations were made against the deceased by accused No.4 despite there being no fault on his part, and that on the basis of such allegations, the accused persons, including office bearers and employees of the school, initiated action against him. It is submitted that the deceased was a teacher with a good academic record, and though the matter was initially resolved before the Tanta Mukti Committee, one of the accused pursued the issue further. It is further submitted that despite the deceased tendering an apology by touching the feet of accused No.4, the proceedings were continued against him. According to the prosecution, the acts of the accused caused mental trauma to the deceased which ultimately led him to commit suicide. It is therefore submitted that the prosecution be afforded an opportunity to lead evidence and establish its case. On this basis, dismissal of the writ petitions is prayed for.

**REASONS AND ANALYSIS:**

11. The prosecution wants this Court to accept that the complaint made against the deceased was not genuine but was a planned act, almost like a trap created by the accused persons. This submission does raise a serious allegation. However when the Court looks into the actual material placed in the charge-sheet, such a conclusion does not come out clearly. The record does not show in a direct manner that the complaint was false or fabricated. On the contrary, the statements collected during investigation show certain consistent facts. It appears from those statements that the deceased had gone to the house of accused No.4 during late night hours. Some witnesses clearly say that he went there on his own. There is no material to show that he was taken there or forced to go. Further there are statements which say that after the incident, the deceased apologised. Some witnesses even state that he touched the feet of accused No.4, which indicates acceptance of some mistake. The report of the Tanta Mukti Committee also records that the deceased admitted his conduct and assured that it would not be repeated. All this material, when read together, shows that there was some incident which caused embarrassment or social discomfort to the deceased. But the law makes a clear distinction. Mere embarrassment or shame cannot be treated as abetment of suicide. There must be something more serious. There must be a clear act or conduct which directly pushes a person to take such extreme step. That necessary connection is not seen here. The material stops at showing an incident and its consequences. It does not go further to show legal abetment.

**12.** The statement of Bhanudas Langi assumes importance because it throws light on the conduct of the deceased before the incident. According to this witness, the deceased had approached him late in the night saying that he was thirsty. The witness was willing to give water, but the deceased refused that help and instead asked about the location of staff quarters. This part is important. It shows that the deceased was making a conscious choice. He did not simply act out of immediate necessity like thirst. He refused water and chose to go elsewhere. Thereafter, as stated, he went towards the house of accused No.4. This conduct appears deliberate. The statement of Hari Popat Pawar also adds one more piece to this situation. He states that accused No.4 came to Buddha Vihar in a frightened condition soon after the incident. This suggests that something unexpected had happened from her point of view. These statements do not support the theory that the accused persons had planned to falsely implicate the deceased. Rather, they suggest that an incident took place and the complaint followed that incident. Whether the conduct of the deceased was right or wrong is not the issue before this Court. The limited question is whether the accused persons can be said to have abetted the suicide. For that, there must be instigation or intentional assistance. The present material does not show any such act.

**13.** Another serious aspect of the prosecution case relates to the alleged suicide notes. These notes are relied upon to connect the accused with the death. But their evidentiary value itself is doubtful. It is not shown that these notes were found at the place

where the deceased died. They were not recovered immediately. It is stated that they were found after four days from a bag. This delay itself creates a doubt about their authenticity. There is also no strong and reliable recovery record prepared at the time of such discovery. In criminal cases, such procedural aspects carry weight. Further there is no handwriting expert opinion placed on record to confirm that the notes were actually written by the deceased. Even otherwise when the contents of the notes are seen, they do not clearly mention any direct act by the present petitioner which can be said to have immediately led to the suicide. Criminal law requires proof, not suspicion. A doubtful document, recovered in a doubtful manner, without proper verification, cannot be used to proceed against an accused for a serious offence like abetment of suicide. The threshold for framing charge cannot be crossed on such weak material.

**14.** The prosecution has also relied upon the statement of Yuvraj Vitthal Gabale. According to this witness, on the morning of the incident, the deceased made a phone call stating that he intended to come to school. This fact creates a peculiar situation. A person who is about to take his own life would not normally speak in such a routine manner about attending school. This creates doubt about the prosecution theory. The petitioner has rightly pointed out this inconsistency. The prosecution, however, has not offered any convincing explanation to remove this doubt. The statement of Meena Dadabhai Arote also does not support the prosecution firmly. She clearly says that she cannot state whether the death was suicidal. This is not a statement of certainty. Similarly, the

statement of Nivrutti Maruti Aabale only indicates that the deceased appeared somewhat quiet in the days before the incident. Such behaviour can have many reasons. It cannot automatically lead to the conclusion that he was driven to suicide by the accused. These pieces of evidence are weak in nature. They do not build a clear and strong chain pointing towards abetment.

**15.** The learned APP has argued with some force that the deceased was a teacher with a good background and reputation, and that the accused persons unnecessarily continued the proceedings against him even after he apologised. It is also argued that this caused mental pressure and trauma. This submission does have some emotional appeal. However, criminal law cannot proceed only on such considerations. Even if it is accepted that the deceased felt humiliated, the law still requires proof of intention on the part of the accused to drive him to suicide, or at least conduct which is so direct and proximate that such consequence becomes a natural result. A departmental inquiry, even if strict or unpleasant, is still part of a lawful process. It cannot automatically be treated as abetment. Courts have consistently held that there must be a clear and active role of instigation. There must be something more than continuation of proceedings. That element is missing here.

**16.** Looking at the entire material together, this Court finds that the case of the prosecution does not cross the basic legal requirement for framing a charge under Section 306. The material mainly speaks about an incident involving the deceased, the complaint made thereafter, the departmental action, and the

apology given by the deceased. These facts may show that the deceased was in some difficulty or distress. But they do not show that the accused persons created a situation with intention to push him to suicide. There is no direct or proximate act attributed to the present petitioner. The allegations are general. They rely more on assumption than on concrete facts. Criminal prosecution cannot be allowed to continue on such uncertain foundation. At the stage of considering discharge, the Court has to see whether there is sufficient ground to proceed. In this case, such ground is not made out.

**17.** There is also one more aspect which cannot be overlooked. This Court has already granted relief to a co-accused on the same set of facts and evidence. The principle of parity requires that similarly placed accused persons should be treated alike. If there is no distinguishing material against the present petitioner, then it would not be proper to continue proceedings against him alone. The prosecution has not pointed out any special role or separate act of the present petitioner which would justify a different view. In absence of such distinction, consistency in judicial approach becomes necessary. Therefore, on this ground also, continuation of prosecution against the petitioner cannot be sustained.

**18.** In view of the foregoing discussion and reasons recorded hereinabove, the following order is passed:

- (i) The writ petitions succeed;
- (ii) The impugned order dated 1 January 2014 passed by the learned Sessions Judge rejecting the applications under

Section 227 of the Code of Criminal Procedure, 1973 is quashed and set aside;

(iii) The applications preferred by the petitioner under Section 227 of the Code of Criminal Procedure stand allowed;

(iv) All petitioners are discharged from Sessions Case No.47 of 2012 for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code;

(v) Consequently, the proceedings in Sessions Case No.47 of 2012, insofar as they relate to the present petitioners, stand quashed and set aside;

(vi) Rule is made absolute in the aforesaid terms. No order as to costs.

**(AMIT BORKAR, J.)**