

**(2020) 12 BOM CK 0045**

**In the Bombay High Court**

**Case No :** Criminal Application No. 3589, 4142 Of 2019, 116 Of 2020

Sayeeshdarshan And Ors

APPELLANT

Vs

State Of Maharashtra And Ors

RESPONDENT

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**Date of Decision :** 11-12-2020

**Acts Referred:**

Indian Penal Code, 1860 — Section 34, 107

Information Technology Act, 2000 — Section 66(A), 66(C), 66(E)

**Citation :** (2020) 12 BOM CK 0045

**Hon'ble Judges :** T. V. Nalawade, J; M.G. Sewlikar, J

**Bench :** Division Bench

**Advocate :** Sandeep B. Rajebhosle, R. B. Bagul, Chaitanya C. Deshpande

**Final Decision :** Allowed

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**Judgement**

T. V. Nalawade, J

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. All three proceedings are filed for relief of quashing of First Information Report (FIR) No. 225 of 2019, dated 28-05-2019, registered with

Pundliknagar Police Station, Aurangabad. Crime is registered for the offences punishable under Section 306 read with section 34 of the Indian Penal

Code (IPC) and Sections 66A, 66C and 66E of the Information Technology Act, 2000. All the applicants are shown as accused in the FIR.

3. The crime is registered on the basis of report given by Sushil Khawase. In the report, he has made allegation that his daughter committed suicide on

24-05-2019 by hanging herself in his house and present applicants are responsible for suicide of his daughter. It is the contention that he was perturbed

due to suicide and he started thinking as to why she committed suicide. She was

studying in final year B.E Computer course. According to him, on 27-

05-2019, when he was examining articles of the deceased daughter, which were in her room, he noticed a chit of two pages of the deceased.

According to him, due to this chit, he realized that Sayeesh Kanala, applicant of Criminal Application No. 4142 of 2019, had joined hands with his

friends, other applicants and had defamed the deceased. He contended that applicant - Kanala had developed friendship with other girl and by doing

that he had mentally harassed the deceased. It is contention that deceased had feeling that her private photographs were made viral after hacking her

electronic devices by these applicants and due to that she was disturbed and ultimately she committed suicide.

4. This Court has carefully gone through the record produced which include communication made by Jawaharlal Nehru Engineering College, where

she was studying and also record in respect of the employment which deceased was likely to get after completing fourth year of engineering course.

5. Submissions made and record show that the deceased had feeling that her electronic devices, like laptop and mobile handset, were hacked by

present applicants and they were likely to use that material against her. Submissions made show that Expert's report in respect of laptop is received

and it shows that there is nothing to indicate that there was hacking of laptop. Learned APP submitted that mobile handset of the deceased is sent to

the Expert for verification to find out as to whether there was hacking in respect of contents of the mobile handset. When incident took place on 24-

05-2019, as yet no report/opinion is received in respect of mobile handset.

6. Submissions made show that the deceased had feeling that there was possibility of hacking of aforesaid devices. The submissions made and record

show that deceased had break-up with applicant - Kanala, one of the applicants. She was disturbed as she felt that applicant -Kanala had developed

intimacy with other girl. According to her, other applicants used to be in the company of applicant - Kanala and they were helping him. Investigation

made and submissions do not show that any friend of the deceased had any information about hacking. It is not the case of police that any boy or girl

of that college had seen the contents of devices of the deceased with any of the applicants.

7. The material collected is of aforesaid nature and it can be said that the

allegations are made on the basis of so-called perception of the deceased that her devices were hacked but nothing objectionable of that kind was found with applicants. When everything is based on perception of the deceased, she had feeling that applicant -Kanala was not with her and he might have developed relation with other girl, it is difficult to infer that there was abetment from applicants to commit suicide.

8. The submissions made and record also show that she had appeared for last semester of B.E. Computer course. Her result was declared and she was declared as 'Failed' in the 'Artificial Intelligence' subject. It was submitted that there was possibility of getting through that subject after revaluation, and accordingly, College had informed. However, record submitted and submissions made show that even after revaluation, the result did not change and she had failed. In campus interview, offer was given by Tata Consultancy Services (TCS) Company of job, however, it can be said that this job was with presumption that she would get through final year also and she would get degree of engineering. As she had failed in the examination it was not possible for her to join as engineer on the post offered by TCS. Though, this reason is not mentioned in suicide note, fact remains that her friends, who got through, were to get job; but, she was not getting this job as she had failed in one subject.

9. For committing suicide, there can be many reasons for the persons like deceased. For making out case of abetment, it is necessary to show that there was intentional instigation as mentioned in Section 107 of IPC from the accused to deceased to commit suicide. Even if aforesaid circumstances are accepted as they are, it cannot be said that there was intention of the applicants to instigate the deceased to commit suicide as defined in Section 107 of IPC. Virtually, there is no material except so-called suicide note. In such cases, only on the basis of such suicide-note, inference of abetment as defined in Section 107 of IPC cannot be drawn. The applicants are also youngsters and their future will be destroyed, if they are asked to face trial for aforesaid offences on the basis of material discussed above. It is also uncertain as to how much time will be required to complete investigation. Even after completion of investigation due to few things in such cases police are always reluctant to take steps like closure of the matter. In view of aforesaid circumstances, this Court holds that applicants cannot be prosecuted

for the offence of abetment of suicide of the deceased. Hence, the following order :-

ORDER

1. All the Criminal Applications are allowed.
2. Relief is granted to the applicants in all the three proceedings and FIR No. 225 of 2019 registered with Pundlik Nagar Police Station, Aurangabad, for the offences punishable under Section 306 read with section 34 of the Indian Penal Code and Sections 66A, 66C and 66E of the Information Technology Act, 2000, is hereby quashed and set-aside.
3. Rule is made absolute in those terms.