

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE,
PUNE.

**COMMON ORDER BELOW EXH. 01 IN SESSION CASE
NO.471/2016.**

[CNR No.MHPU010089232016].

The state of Maharashtra Complainant
Vs.
Somnath @ Dadya Mohan Shelar
and others ... Accused.

The learned APP filed the draft charge for the offences punishable under section 302, 452, 504 and 506 read with section 34 of the Indian Penal Code, 1860.

2] Perused the application. Heard, the learned public prosecutor for the State and learned Advocate Shri. Rohan Nahar for the accused.

3] The learned APP pointed out that for attracting all the offences, there is a sufficient material on the record. It is pointed that in the FIR lodged by the Sangita Chintaman Bhuyar is the eye witness and Anita Chintaman Bhuyar is another eye witness. There are names of the accused, the specific acts are attributed to the accused about the coming to the house, beating the deceased, in PM report there is a blunt trauma to the chest, the abuse and threat are also mentioned whereas the learned Advocate Shri. Rohan Nahar submitted that for the offence punishable under section 452 and 302 read with section 34 of the IPC there is no dispute, but offences punishable under section 504 and 506 read with section 34 of the IPC are not attracted as the allegations in respect of the abuse and threat are vague in nature.

4] The learned Advocate for the accused placed his reliance on the citation of Hon'ble Bombay High Court *Meenabai Deepak Mahale and others Vs., State of Maharashtra 2024 SC OnLine Bom 952* wherein our parent Hon'ble High Court observed in paragraph No.45 and 46 are as under:-

45. Section 504 provides a remedy for using abusive and insulting language which may lead to a breach of the public peace and the insult should be intentional which would provoke a person to break the public peace or to commit any other offence. For an offence under section 504, what is material is the intention of the offender to provoke or his knowledge that he is likely to provoke the person insulted to commit an offence. The offence punishable under section 504 would come under the category of mis-demeanours.

46. In the statement recorded in the FIR and subsequently, there is no averment or material that the petitioners or his relatives in and around the time of incident insulted the deceased-Sumitra, which would result into invocation of section 504 of the IPC. We fail to understand as to how the present incident whereby Sumitra committed suicide has resulted into breaking the public peace and from the material on record as evident from the FIR, there is not even a whisper of the same. Furthermore, the insult should result into provocation to any person to commit any other offence. In the instant case, we have already observed that there was no provocation or insult and in any case dying by committing suicide is not treated as an offence under the IPC.

5] In the FIR Sangita Chintaman Bhuyar there is a specification that at 8.30 p.m., on 16/08/2014 the accused Somnath @ Dadya Mohan Shelar and Rahul Sudam More came in their house and beat her husband. When she and her daughter Anita tried to pacify, they abused them and threatened them. The accused Somnath Shelar caught hold the caller of her husband Chintaman and struck his head on the cement floor/Ota. This portion was supported by witness Anita Chintaman Bhuyar also.

6] So far as, the offence punishable under section 452 and 302 of the IPC, there is a specific material on record in view of the these two eye witness. Deceased died due to the injuries sustained. There is a specific mention of blunt trauma to the chest. So there is a sufficient material on record to proceed with the offence punishable under section 302 and 452 read with section 34 of the IPC. So far as offence punishable under section 504 and 506 read with section 34 of the IPC there are no specific words about the abuse or threat. The principle laid down in the above cited case is applicable. Prima facie only on the point of vague statement of abuse or threat of two eye witnesses, there is no material to proceed with the offence under section 504 and 506 read with section 34 of the IPC. So charge needs to be framed against the accused under section 302 and 452 read with section 34 of the IPC. Hence, the order.

ORDER

1. Charge be framed against the accused for the offences under section 542 and 302 read with section 34 of the Indian Penal Code, 1860.

Dated-21/10/2024.

(Mahendra K. Mahajan)
Sessions Judge, Pune.