

ORDER BELOW EXH.47

The present application is filed by the informant for addition of charge under Section 302 and 201 of IPC.

2. In brief, it is contention of the informant that she has lodged report in Police Station Malegaon on the basis of which Crime No.258/2023 was registered against accused on 09/06/2023 for the offences punishable under Sections 498A, 306, 304B, 506 r/w 34 of IPC. The said crime was investigated and charge-sheet was filed against the accused for the aforesaid offences. On perusal of charge-sheet it has come to the notice of the informant that the chain of circumstantial evidence which is communicated by IO clearly indicates that charge under Section 302 and 201 of IPC is required to be framed in addition to the aforesaid offences.

3. It is contention of informant that deceased Vaidehi after completion of 12th std., examination had performed registered marriage with accused no.1 Rushabha. At the relevant time her age was 18 years 03 months and 14 days. One of the witness to the said marriage was Anita Thakre who is first wife of accused no.1 Rushabha. Accused Rushabha and Anita obtained mutual divorce in Family Court, Buldhana on 14/03/2023 however, even thereafter she was residing with accused Rushabha till 15/04/2023.

4. It is further alleged by the informant that deceased Vaidehi prior to her death made phone call to informant and told her that accused Rushabha is torturing her. On 09/06/2023 accused no.3

Shubham made phone call to informant and threatened to kill Vaidehi. Lastly on 06/06/2023 at 8.00 p.m. accused Rushabha had called informant and told them to come to Critical Hospital, Washim and had given them false information that Vaidehi had suffered sunstroke and she was hospitalized. On 07/06/2023 when the informant reached to Critical Hospital, Washim they found that Vaidehi was unconscious. Doctor had informed them that she had consumed poison and asked them to take her to Ozone Hospital, Akola. Immediately she was taken to Ozone Hospital, Akola, however she died. It is contention of informant that in Critical Hospital, Washim and in Ozone Hospital, Akola where the deceased was hospitalized, none of the accused were attending her and they were absconding.

5. Further it is her contention that she had given report on 09/06/2023 regarding consumption of poison by Vaidehi as doctor of Critical Hospital, Washim had informed them said fact. Thereafter the crime was investigated. During the investigation it was revealed that spot of incident is situated in the field of Dipak Thakre. Police had prepared spot panchanama of said spot. Further statement of accused no.1 was recorded on 06/06/2023 and he had informed to police that on that day at about 1.00 a.m. he along-with deceased Vaidehi were sitting under Mango tree and accused no.1 communicated Vaidehi that he will go to Washim and start business. On this Vaidehi was irritated and she went inside the room. After five minutes she came out and vomitting and she told accused that she had consumed poison. Immediately she was hospitalized. Said statement of accused recorded by police, indicates that deceased

Vaidehi was lastly along-with him. It is further contention of informant that from the spot panchanama it appears that spot is actually room admeasuring 7 x 10 ft constructed of tin-sheets. In the said room there was only one cot however, there was no bedding in the said room. Further in the said room there were clothes and articles of deceased Vaidehi and some items of grain. However, there were no cooking utensils. So also there were no clothes of accused Rushaba in said room. It was informed to police by Dipak that accused Rushaba and deceased were residing in said room since one month. So also there was no bathroom or bucket or any item for drinking water in said room. One bottle containing poison was seized by the police which was lying on the ground under Mango tree. It is contention of informant that deceased Vaidehi was not having any source for purchasing poison. So also it needs to be considered that in the PM report it can be seen that there were 13 surface injuries on the body of deceased and all injuries were ante-mortem which indicates that she was tortured by the accused.

6. It is argued by Ld. Advocate for informant that on the basis of aforesaid facts that evidence which is come on record clearly indicates that Vaidehi were not residing in room shown as spot of incident. All the articles were planted subsequently only to create farce that they were residing in said room. He has argued that actually accused Rushaba had forcibly taken Vaidehi to said room and forcibly administered poison to her. After the incident soil outside the room was ploughed and no evidence was collected to show that Vaidehi had vomitted outside the room. All the circumstances point out that accused had murdered the deceased

and had subsequently tampered with the evidence. In the said circumstances, there is sufficient evidence on record for framing charge under Section 302, 201 r/w 34 of IPC. Hence, additional charge framed against the accused. In support of his argument he has placed reliance upon following authorities :

i) **Ranbir @ Raju & Anr vs. State of Haryana, AIR 2011 SC 568** wherein it is held by the Hon'ble Haryana High Court that “ *We further direct all trial courts in India to ordinarily add Section 302 to the charge of section 304B, so that death sentences can be imposed in such heinous and barbaric crimes against women.*”

7. Said application is strongly opposed by the Ld. Advocate for accused by filing say below Exh.49. It is his contention that the prayer of informant for adding charges under Section 302 and 201 of IPC is wholly misconceived and not tenable. After through investigation charge-sheet is filed against the accused for the offences punishable under Sections 498A, 304B 306, 506, 494 r/w 34 of IPC. There is no material on record about commission of offence under Section 302 of IPC. Further PM report indicates that death was homicidal. So also there is no material to show that deceased was meted out with violence. There is no *mens-rea* for commission of murder and thus the application is without merits and needs to be rejected. Ld. Advocate for accused has argued in accordance with his contention in the say.

8. Considering the submission of Ld. Advocates for both sides, so also in perusal of record it appears that as pointed out by Ld. Advocate for informant there are certain circumstances which create doubt about the consumption of poison by the deceased on

her own. Further as pointed out by Ld. Advocate for the informant there appears injuries on the person of deceased in the PM report and said injuries are opined to be ante-mortem. In the said circumstances, as directed by Hon'ble Supreme Court in the authority of **Ranbir @ Raju & Anr vs. State of Haryana**, cites supra original charge under Section 302 needs to be framed. In the case in hand, as the circumstances pointed out by Ld. Advocate for informant about destruction of evidence, even charge needs to be framed under Section 201 of IPC. Even otherwise it cannot be disregarded that though the charge is framed against the accused, entire burden to prove said charge is on the prosecution. In the said circumstances, even if charges are framed against accused no prejudice would be caused to them. Accordingly, in the interest of justice I proceed to pass following order.

ORDER

- 1] Application is allowed.
- 2] Additional charge under Section 302 & 201 r/w 34 of IPC be framed against the accused.

Date: 30/06/2026

(M. S. Shahastrabuddhe)
Additional Sessions Judge,
Washim.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/Order are same word to word, as per the original order :-

Name of the Stenographer	:-	R.K.Pawar, Stenographer (Grade-1)
Court Name	:-	District Judge-3 & Additional Sessions Judge, Washim
Date	:-	30/06/2026
Order signed by the Presiding Officer on	:-	30/06/2026
Order uploaded on	:-	30/06/2026