

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.975 OF 2016**

Mrs. Shakila Abdul Wahab Siddavatm &
Ors. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO.568 OF 2016**

Ms Samruddhi S. Sawant & Ors. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO.569 OF 2016**

Ms Marathe Nameeta Prabhakar & Ors. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO.493 OF 2016**

P.A. Inamdar & Ors. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr. Sidheshwar N. Biradar for the Applicants in APL/975/16,
APL/568/2016 and APL/569/2016.

Mr. Niranjana Munderga for the Applicants in APL/493/2016.

Mr. Abhishek Pungliya for the Respondent No.2 in all matters.

Mr. N.B. Patil, APP for the Respondent No.1-State in all matters.

**CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 6th FEBRUARY, 2017.

P.C.:-

Heard the learned counsel appearing for the Applicants.
Heard the learned APP appearing for the State and learned counsel for the First Informant, who is the second Respondent.

2. There was an unfortunate incident on 1st February, 2016 at the well known beach at Murud Janjira, District-Raigad. Abeda Inamdar Senior College, Pune, run by the Maharashtra Cosmopolitan Education Society had arranged a picnic of the students in the said Senior college at Murud Janjira on 1st February, 2016. About 116 students joined the picnic. Some of these students entered sea for the purpose of swimming. Unfortunately, some of those students lost their lives due to drowning.

3. Challenge in these Applications under Section 482 of the Code of Criminal Procedure, 1973 is to the First Information Report registered for the offences punishable under Section 304 A read with 34 of the Indian Penal Code.

4. The Criminal Application No.975 of 2016 is filed by the three teachers and a Peon working in the said college. The Criminal Application No.568 of 2016 is filed by the two teachers and a Peon employed in the said college. The Criminal Application No.569 of 2016

is filed by the three teachers and a Library Assistant of the said college. The Criminal Application No.493 of 2016 is filed by the office bearers of the Maharashtra Cosmopolitan Education Society.

5. The learned counsel appearing for the second Respondent relies upon a report of the Fact Finding Committee set up by the Savitribai Phule Pune University. A Copy of the said report is tendered on record. The conclusion drawn by the Fact Finding Committee is that the said college has not abided by the guidelines of UGC on Safety of Students on and off Campuses of Higher Education Institutions dealing with safety of students on tours, academic trips etc.

6. It is not in dispute that the students were of senior college and most of them had attained majority. In fact, the learned counsel appearing for the second Respondent stated that the students, who died in the incident, had attained majority.

7. Even assuming that there is a dereliction of duty on the part of the members of the Managing Committee, the teaching and non teaching staff of the said college, prima facie, it appears to us that same has no proximity or direct connection with the death of the unfortunate students. Rash or negligent act will not amount to an offence under

Sections 304 A of the Indian Penal Code unless the act has a direct connection with the cause of death of another person. Their negligence cannot be said to be immediate or proximate cause of the death of the students. The said law has been laid down in the case of *Sushil Ansal Vs. State*¹. Same is the case with the office bearers of the Institution which runs the College.

8. Prima facie it appears to us that the offence under Section 304A of the Indian Penal Code is not made out as against the Applicants. Hence, we issue rule. The learned APP waives service for the first Respondent. The learned counsel appearing for the second Respondent waives service. By way of interim relief, we direct that the investigation shall continue. Charge sheet shall not be filed as against the Applicants without leave of this Court. We make it clear that the observations made in this order are only prima facie observations. The same will not affect the remedy of the affected parties of seeking compensation /damages.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)

¹ (2014) 6SCC 173