

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 2599 of 2015

ORDER:

The petitioner, who is the sole accused in Crime No.290 of 2014 of G.R.P., Secunderabad, filed the present Criminal Petition under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with the above crime, registered under Section 174 Cr.P.C. and subsequently altered to 498-A and 306 IPC.

The case of the prosecution is as under:

The marriage of the deceased with the petitioner took place in the year 2008 and out of wedlock they were blessed with a male child. As the death of the deceased took place within seven years of the marriage, the Executive Magistrate conducted inquest over the dead body of the deceased and thereafter sent the same for Post Mortem Examination. The material on record discloses that on 24.11.2014 the petitioner and the deceased, who were staying at the house of the parents of the deceased had a quarrel and later both of them left the house. Some time thereafter, accused alone returned to the house. When the father of the deceased asked about the deceased, the petitioner replied that he does not know where she went and she might have eloped with some others. When the father of the deceased started searching for the deceased, he found a dead body on a railway track near Borabanda. Basing on the statement of the father, the Section of Law was altered to Sections 498-A and 306 IPC.

Learned counsel for the petitioner submits that even accepting the allegations in the report to be true no offence is made out against the petitioner. According to him, the ingredients constituting an offence punishable under Section 107 IPC are not made out so as to constitute an offence punishable under Section 306 IPC. He further submits that the allegations in the report do not anywhere disclose cruelty meted out by the deceased.

Learned Public Prosecutor strenuously opposed the application contending that the allegations in the report do make out a case and the petitioner is not entitled for anticipatory bail.

A perusal of the material on record discloses that on the day when the deceased committed suicide, there was a quarrel in the house, pursuant to which petitioner and deceased left the house together. Subsequently, the petitioner alone returned back to the house. When questioned, he started giving evasive answers. On suspicion the parents searched for the deceased and ultimately they traced the dead body on railway track near Borabanda.

The counsel for the petitioner mainly relied upon the statement of the Guard and Loco pilot of Train No.47113. In his statement he stated that the deceased without observing the train came out on to the track, which led to the accident. It is very difficult to him to say as to why and under what circumstances the deceased came out on the railway track and also the manner in which she wants to commit suicide. The plea taken by the learned counsel for the petitioner that normally the mode of commission of suicide would be only to lie down on to the railway track, cannot be accepted. It all depends on the attitude the circumstances that crop up at that time. Therefore, the guard cannot say as to whether incident was accident or intentional. Since the material on record discloses about a quarrel that occurred on 24.11.2014 and as the statement of the father of the deceased refer to the acts of harassment by the petitioner prior to the deceased committing suicide, it cannot be said that the incident was accidental. If it was a case of accident, the conduct of the petitioner would have been different. Further, a perusal of the statement of LW.1 would disclose that right from the date of marriage the petitioner used to harass the deceased either for demand of dowry or by suspecting the character of the deceased. Having regard to the nature of allegations made, I am not inclined to grant anticipatory bail to the petitioner.

Accordingly, the Criminal Petition is dismissed.

C.PRAVEEN KUMAR,J

01.04.2015

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