

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.6956 of 2015

ORDER :

The Criminal Petition is filed by the petitioner/ accused No.3 in PRC No.4 of 2015, under Section 482 Cr.P.C seeking to quash the proceedings in PRC No.4 of 2015 on the file of First Additional Judicial First Class Magistrate, Nizamabad, Nizamabad District, which is outcome of report of 2nd respondent/ de facto complainant in Crime No.123 of 2013 dated 05.04.2013. The police from the final report filed charge sheet for the offence under Section 306 IPC as many as against five accused that was taken cognizance by the learned Magistrate to commit the case.

2) The final report shows the name of the accused No.4 is deleted from the accusation of accused Nos.1 to 3 and 5 are charged and the cognizance taken by the Magistrate is against them. The original Crime is registered under Section 174 Cr.P.C. The report of de facto complainant to I Town Police Station, Nizamabad dated 05.04.2013 reads that the de facto complainant by name Mukka Shanker retired as Head Master of Government High School, Kamareddy and has a son and daughter. On 27.02.2011 he performed his son's (by name Ramakrishana) marriage with one Sravanthi and after marriage, some differences arose between wife and husband as his daughter-in-law used to quarrel with his son to shift their family to Hyderabad for leading happy marital life, where when his son went to attending duty, his daughter-in-law started roaming with the friend of his son by name Kiran in a car. On receipt of said information, one day his son without knowledge of his wife stayed in the house and noticed Sravanthi proceeded with Kiran in the car, the same was informed to him by his son Rama Krishna. On that he called his daughter-in-law to Kamareddy, thereafter his daughter-in-law started quarelling with them alleging that her marriage was performed without her consent. Later, she brought her father from Siddipet and without informing to them left the matrimonial house. Since then, his son started feeling mentally and left his job. About 15 days back prior to the report, his son left Kamareddy informing to do job at Hyderabad and three days back

to the report, his son talked over phone and on that day he requested his son to return back to home, for which he replied he could return back after some time. While so, on 05.04.2013 at about 11.30 hours, S.I,

I Town Police Station, Nizamabad made a phone call informing that his son Ramakrishna consumed poison in A.P Tourism Guest House and he is undergoing treatment in Government Hospital, Nizamabad. Immediately, he along with his wife proceeded to hospital and while undergoing treatment his son breathed the lost. It is due to bad character of his wife Sravanthi and on seeing his wife with his friend Kiran in the car, disgusted over his life and on 05.04.2013 night his son consumed poison in Room No.307 in A.P Tourism Guest Room and while undergoing treatment on that day at about 11.30 am died.

3) The police having registered the same as Crime No.123 of 2013 under Section 174 Cr.P.C. After investigation filed final report against A-1 Kammari Kiran Kumar (software business at Bowenpally), A2 Karangula Naresh Reddy (Lab Assistant of OU, Hyderabad), A-3 Bombothula Noothan Goud (Reliance Manager), A-5 Yerram Shivashankar (Sriram Chits worker, Siddipet) on 06.09.2014 from the investigation citing the de facto complainant-cum- father of deceased as LW.1, mother of deceased as LW.2, Maternal uncle of deceased—LW.3, and LWs.5 to 8 other witnesses in relation to the facts besides photographs, scene observation, inquest report, who conducted autopsy over the dead body, Investigating Officer registered the crime and investigated and filed charge sheet.

4) The police final report discloses that the conclusion of the personal diaries of the deceased containing the writings of the harassment of Kiran and his friends referred supra and therefrom altered the Section of law to Section 306 IPC against 5 accused and A1 was apprehended on 03.04.2013 and the interrogation discloses the complicity to the crime in privy with accused Nos.2 to 5 of the altered crime. A-1 was arrested and submitted to judicial custody and the Doctor opined cause of death is due to consumption of dimetioate an insecticide poison and the evidence collected during investigation as per the final report establishes that A1—Kiran Kumar and deceased are close friends and marriage of A1—Kiran Kumar was performed about three years back. The deceased used to move closely with the wife of A1, for which Kiran Kumar bore grudge against the deceased. Moving closely with

deceased, he got given Ayurvedic medicines for making impotency to deceased. After one year the marriage of deceased performed with one Sravanathi. Since then Kiran at the instigation of his friends viz., Naresh Reddy, Noothan Kumar, Chakravarthi, Shivashanker started moving closely with the wife of deceased and maimed her that Kiran developed illegal intimacy with the wife of deceased and on seeing the deceased, Kiran started moving in the car with the wife of deceased. Due to said harassment of Kiran and his four friends, the deceased fed up over his life and he wrote a suicide note in his personal diary explaining all the details about the harassment in the hands of Kiran and his four friends and thereby, consumed poison and committed suicide.

5) The contention of the quash petitioner/ accused No.3 in seeking to quash the PRC proceedings against him are that he is innocent and working in Reliance Insurance Company as Manager and he is falsely implicated and the reasons for suicide mentioned by deceased show the differences with his wife from the inception of marriage and once accused No.4 of the altered crime is not charged equally, with the petitioner, the petitioner is also not liable to be charged by police. In fact, accused No.4 approached the High Court in CrI.P. No.9100 of 2013 and after hearing both sides, this Court allowed the Criminal Petition on 25.03.2014 by quashing the proceedings in Crime No.123 of 2013 on the file of I Town Police Station, Nizamabad, Nizamabad District against accused No.4.

6) In support of his contention, learned counsel for the petitioner placed reliance upon the expression in CrI.P. No.2522 of 2007 dated 22.06.2010 reported in ***Makkena Balaiah & others vs the State of A.P*** for the offence under Section 306 IPC referring to the expression of Supreme Court in ***Ramesh Kumar vs State of Chattisgarh***, wherein it is observed that at the instigation of accused persons against the deceased as impotent and for that reason wife of deceased developed illicit intimacy with accused No.1 from which deceased became sensitive and committed suicide without knowing the consequences. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. To constitute abatement under Section 107 IPC to commit suicide punishable under Section 306 IPC as the supportings have to be read in the contest of previous incidents taken place prior to the occurrence where on noticing

that wife of deceased moving with accused No.1 and later wife of deceased discarded him from which deceased taken decision to commit suicide, thereby no offence for abetment that can be made out to quash the proceedings of PRC from the final report taken cognizance by the learned Magistrate to commit. The conclusion arrived by this Court referring to four expressions including ***Dammu Sreenu vs state of Andhra Pradesh, Gangula Mohan Reddy vs State of Andhra Pradesh, Sanju @ Sanjay Singh Sengar vs State of M.P*** besides Ramesh Kumar supra of the Supreme Court on considering the case relating to quarrel between accused and deceased where accused allegedly told the deceased “*to go and die*” that said phrase itself would not constitute ingredient of instigation and that presence of mens rea is necessary concomitant of instigation.

7) In Gangula Mohan Reddy supra, it was held from the material shown that the deceased being hypersensitive man, who committed suicide when the accused leveled allegation of theft of ornaments on the deceased who is his servant and demanded back advance amount paid at the time of his employment.

8) In Dammu Srinu supra, it was observed there must be definite proximity and nexus between conduct and behavior of the accused with that of suicide committed by deceased. Another bench of this Court in CrI.P. No.9100 of 2013 filed by accused No.4, allowed on 21.03.2014 quashing the crime proceedings with the observation that except the bold statement there is nothing on record showing A-4 abetted the deceased for commission of offence for committing suicide, thereby the proceedings are liable to quashed. Even from the report, the main perpetrator, if at all instigated or abetted to commit suicide by deceased directly or indirectly is Said Kiram Kumar and wife of A1 i.e., Sravanthi and so far as petitioner—Noothan Goud are that the accused Y.Shivashanker, K.Naresh Reddy concerned there is nothing to show the intention to drive the accused to commit suicide.

9) Even from the statement of de facto complainant during investigation what is averred is Kiran Kumar A1 and his friends A2 to A5 by luring the wife of Ramakrishna by name Sravanthi and Sravanthi even believed the words of Kiran and started moving with him neglecting her husband Ramakrishna, with what

Ramakrishna questioned for which Kiran in the presence of his father what is proved to make the allegations against him to do what he can. From which, he was mentally suffered by the conduct of Kiran Kumar and his friends, whose acts caused distance between him and his wife. Even the statement that witnesses, the mother of deceased LW.2 nowhere means and coming to LW.3, who is Ramakrishna's sister son that also no means and even from the statement of other witnesses the main allegation is against Kiran Kumar and Sravanthi.

10) Having regard to the above, the Criminal Petition is allowed and all the proceedings relating to PRC No.4 of 2015 on the file of I Additional Judicial First Class Magistrate, Nizamabad, Nizamabad District, are hereby quashed. The bail bonds of the petitioner/ accused No.3 if any, shall stand cancelled.

11) Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:18.11.2015

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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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