

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 3077 of 2015

ORDER:

The petitioners, who are accused Nos.1 and 2, filed the present Criminal Petition under Section 438 Cr.P.C. seeking release in the event of their arrest in connection with Crime No.1399 of 2014 of Banjara Hills Police Station, Hyderabad, registered for the offences punishable under Sections 120-B, 302, 406, 465, 471, 197, 201, 203 and 218 IPC. Originally a private complaint was filed under Section 200 Cr.P.C. which was referred to the police under Section 156 (3) Cr.P.C.

The gist of the allegations in the complaint is as under:

The marriage between accused No.1 and the deceased which took place on 30.11.2001 was a love marriage. Out of wedlock they blessed with a son by name Pranith. At the time of marriage they lived in Glasgow, Scotland and after the birth of the child, both of them came down to India and on their arrival the parents of the deceased accepted the marriage. On a demand made by accused No.1, the father of the deceased purchased a flat in Jyothi Villa Apartments, Road No.12, Banjara Hills, Hyderabad in the name of the deceased. Later, the father of the deceased sent accused No.1, the deceased and the child to Manila, Philippines by spending huge amount, where they lived from 2007 to 2010 and then returned to Hyderabad. After coming down to Hyderabad, accused No.1 started harassing the deceased to get more money from her parents or to register the flat in his name. The father of the deceased gave Rs.8.00 lakhs in the year 2011 to accused No.1, who spent the same to meet his bad vices. The father of the deceased also purchased a flat in the name of the deceased for maintenance of the deceased, accused No.1 and their son. In the month of September, 2012, accused No.1 joined M/s. Amarchand Mangaldas, a legal firm in Mumbai and took an apartment on rent in Mumbai. After a few months, the deceased joined accused No.1 at Mumbai but due to education of her son, she returned back to Hyderabad. In the month of October, 2013, accused No.1 came to Hyderabad and on one day the accused in an inebriated condition told the deceased that he was in love with accused

No.2 and that he is not interested to live with the deceased. In the month of April, 2014, accused No.1 left his job in Mumbai, came down to Hyderabad and joined in M/s. JDA Software, Hitech City, Hyderabad. On 15.06.2014 the deceased informed LW.2 that accused No.1 demanded Rs.1.00 crore and if the said amount is not paid he may join accused No.2 once again. On 25.06.2014 at about 2.00 p.m. the informant received a phone call from accused No.1 informing that the deceased committed suicide. On 26.06.2014 the dead body was shifted from Apollo Hospital to Osmania General Hospital, Hyderabad, for post mortem examination, where accused No.3 conducted P.M.E. and issued an incorrect report. Thus, it is alleged that accused Nos.1 and 2 conspired with each other to do away the life of the deceased and accused No.1 killed the deceased, created a scene as if she committed suicide and accused No.3, the doctor, who conducted post mortem examination colluded with the accused and issued a false and incorrect Post Mortem Examination Report. Basing on these allegations the above case came to be registered.

Heard learned counsel for the petitioners and learned Public Prosecutor appearing for the respondent-State.

The main ground urged by the learned counsel for the petitioners is that when a message was sent from the eye pad of the deceased at 12.40 p.m. the question of first petitioner being present in the house does not arise. He further submits that the first petitioner himself entered into the house after breaking the door and as such it cannot be said that he was present in the house at the time of the accident. Relying upon the above circumstances the learned counsel for the petitioners further submits that the allegations made against the petitioners are all false. He also submits that there is abnormal delay in lodging the report which itself falsifies the case.

Learned Public Prosecutor opposed the application contending that the allegations made in the report do make out a case and as such the petitioners are not entitled for any relief.

The material on record disclosed that immediately after the death of the deceased, a case in Crime No.668 of 2014 of Banjara Hills Police Station came to be registered under Section 174 Cr.P.C. On coming to know that the petitioner mislead the investigating agency by managing the doctor who

conducted post mortem examination and a private complaint came to be filed against the petitioner. Hence, there is a delay in lodging the present report. It cannot be said to be a second report as contended by the petitioners. In fact the police could have proceeded further in Crime No.668 of 2014 registered at the earliest point of time, but since there was reference under Section 156 (3) Cr.P.C. they were forced to register another crime.

A perusal of the material on record more particularly the statement of the son of the deceased would show that the main door of the house has three keys and one key would be with the first petitioner. The statement of maid servant would show that the first petitioner was present in the house at 12.30 p.m. Such being the position, the question of deceased sending a message to the first petitioner asking him to be present before 3.00 p.m. for opening the door appears to be highly doubtful.

It is the case of the prosecution that though the deceased was killed, the first petitioner created a scene as if she committed suicide by hanging, by placing a ladder by her side and entering the house by damage to the main door. When the statement of the son discloses that the first petitioner was also having a key, there is no reason for him to damage the main door. Therefore, a doubt arises with regard to the version of the accused.

Learned counsel for the petitioners submits that suicide note which has been recovered from the scene of offence does not in any way inculcate the petitioners with the crime. The said suicide note, the contents and handwriting of which are objected to by the informant, was sent to a handwriting expert along with the admitted writings of the deceased, wherein the expert gave an opinion stating that the writings on the suicide note do not belong to the deceased.

Insofar as the second petitioner is concerned, she is having illicit intimacy with the first petitioner. Both of them stayed in a hotel at Bengaluru from 21.06.2014 to 25.06.2014. On the morning of 25.06.2014 the second petitioner boarded a flight to Mumbai at 5.30 a.m. and the first petitioner came down to Hyderabad at 7.30 a.m. Both the petitioners are alleged to have conspired with each other to do away with the life of the deceased and thereafter the second petitioner left to Mumbai. Though there is a delay in lodging the report, but in view of the

circumstances narrated above, and as the contents of the Post Mortem Examination were found to be incorrect by the investigating agency, I am not inclined to grant anticipatory bail to the petitioners.

Accordingly, the Criminal Petition is dismissed. However, the second petitioner who was not present at the scene of offence, is advised to surrender before the concerned Court and move an application for grant of bail before an appropriate Court after giving notice to the Public Prosecutor, in which event the same shall be dealt with on merits in accordance with law on the same day.

C. PRAVEEN KUMAR, J

17.04.2015

gkv

-