

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15918 OF 2016

ORDER:

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings in S.C. No.183 of 2016 pending on the file of Assistant Sessions Judge, Narayanapet.

The petitioners sought for the above relief on the following grounds:

- a) The petitioners are implicated subsequently only to harass them and the statements recorded during investigation does not disclose the involvement of the petitioners.
- b) the allegations made in the charge sheet on its face value would not constitute any offence.
- c) there is no *mensrea* on the part of the petitioners to drive Ranemma, who is the daughter of the second respondent, to commit suicide. In the absence of any allegations attributing *mensrea* the petitioners cannot be roped in serious offence punishable under Section 306 of I.P.C.
- d) It is further contended that Section 306 I.P.C. attracts only when the petitioners allegedly abetted the deceased to commit suicide, otherwise the petitioners cannot be tried for the said offence and prayed to set aside.

During hearing, learned counsel for the petitioners, while reiterating the contentions urged in the petition, drawn the attention of this Court to the Judgment of the Apex Court in

GANGULA MOHAN REDDY v. STATE OF ANDHRA PRADESH¹

to contend that in the absence of any allegation of abetment to commit suicide, the petitioners cannot be roped and such proceedings shall be quashed and prayed to quash the proceedings.

As seen from the charge sheet, the marriage of the deceased-Achutha Ranemma was performed with the son of first petitioner on 31.05.2013 and he kept his wife at Kosigi with her Mother-in-law and brother-in-law, petitioners 1 to 3, while he was working at different places. During the stay of the deceased-Ranemma with the petitioners, they did not allegedly allow to stay with her husband and allegedly forced her to commit suicide, due to unbearable harassment meted in the hands of the petitioners.

The counsel for the petitioners contended that when the allegations made in the complaint would not constitute an offence, more particularly, the offence punishable under Sections 498-A and 306 I.P.C. the proceedings can be quashed and that apart, there is no allegation against the petitioners that they abetted Ranemma to commit suicide or drove her to commit suicide.

But the death of the said Ranemma took place within 7 years from the date of marriage and therefore a presumption under Section 113-A of Indian Evidence Act, 1872 is when the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of

¹ (2010) 1 SCC 750

seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

In the explanation, it is provided that the meaning of the word 'cruelty' shall have the same meaning as in Section 498-A of I.P.C.

Here the offences allegedly committed by the petitioners are punishable under Sections 498-A and 306 I.P.C. Section 306 I.P.C. deals with punishment for abetment of suicide. There is no dispute about unnatural death of Ranemma at her in-laws house and within 7 years from the date of marriage. Therefore, the court is bound to draw presumption under Section 113-A Indian Evidence Act, and though it is rebuttable presumption, such presumption can be rebutted either by eliciting something in the examination of prosecution witness or by adducing independent evidence. But, at this stage, absence of alleged abetment cannot be disbelieved in view of presumption under Section 113-A of Indian Evidence Act.

Even according to explanation (a) to Section 498-A of I.P.C., the cruelty means any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Here the petitioners, being the relatives of the husband of Ranemma, subjected her to

cruelty and drove her to commit suicide, which falls within the ambit of explanation (a) to Section 498-A of I.P.C.

Therefore, on the face value of the allegations made in the charge sheet, it would constitute offences punishable under Sections 498-A and 306 of I.P.C. Consequently, the proceedings cannot be quashed exercising power under Section 482 of Cr.P.C.

The counsel for the petitioners placed reliance on the Judgment of the Apex Court in **GANGULA MOHAN REDDY's** case referred to supra, wherein the Apex Court did not advert to the presumptions under Section 113-A of Indian Evidence Act. Therefore, the principle laid down therein has no direct application. However, the allegations in the charge sheet on its face value would constitute the offence punishable under Section 306 of I.P.C., in view of presumption under section 113-A of Indian Evidence Act.

It is settled law that the inherent power under Section 482 of Cr.P.C. can be exercised by this Court sparingly in exceptional cases. In **STATE OF HARYANA v. BHAJAN LAL**², the Apex Court laid down certain guidelines, in guideline No.1 it is held that where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the court can quash the proceedings. But here the allegations made in the charge sheet on its face value would constitute an offence punishable under Section 498-A and 306 of I.P.C.

² (1992) SUPP (1) SCC 335

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Therefore, I find no ground to quash the proceedings against the petitioners in S.C. No.183 of 2016 and consequently the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed at the stage of admission.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 18.11.2016
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