

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.3880 of 2013

This Criminal Petition, under Section 482 Cr.P.C. is filed by the petitioner/Accused aggrieved by the order, dated 11.03.2013, in CrI.R.P.No.33 of 2012 on the file of Sessions Judge, Vizianagaram.

2. Originally, the petitioner filed the aforesaid CrI.M.P.No.65 of 2012 in S.C.No.79 of 2010 on the file of Assistant Sessions Judge, Vizianagaram under Section 227 Cr.P.C. seeking to discharge him for the offences punishable under Sections 498-A and 306 I.P.C and the same was dismissed vide order, dated 11.03.2013. Aggrieved by the same, the petitioner filed CrI.R.P.No.33 of 2012 on the file of Sessions Judge, Vizianagaram. The learned Sessions Judge, by impugned order, dated 11.03.2013, dismissed the revision petition confirming the order of learned Assistant Sessions Judge. Aggrieved by the same, the present criminal petition is filed, which amounts to second revision, which is not permissible except in extraordinary circumstances.

3. Heard the arguments and perused the record.

4. The marriage of the petitioner with the deceased was performed in the year 1995. During their wedlock, they were blessed with two children. The petitioner is a Doctor by profession. Initially he worked in a private hospital at Trichy in Tamil Nadu State and later shifted to Visakhapatnam and worked in Seven Hills Hospital and subsequently, he was shifted to Garividi Village. The petitioner purchased a flat in Visakhapatnam, where the

deceased used to stay along with her children and the petitioner used to come to Visakhapatnam during week ends. Likewise the deceased along with her two children went to Gariividi Village during week ends. After some time, the petitioner used to harass the deceased and due to continuous harassment, the deceased committed suicide on 17.05.2009 by hanging herself. The deceased left four suicide notes i.e., 1) addressed to the parents, 2) addressed to her husband, 3) To whomsoever it may concerned and 4) to her children. Initially, a case was registered under Section 174 Cr.P.C and subsequently, after elapse of two months, the father of deceased approached Women Protection Cell and gave a report on 13.07.2009. Basing on the same, the section of law was altered from Section 174 Cr.P.C. to Sections 306 and 498-A IPC and after investigation, police filed charge sheet.

5. Learned counsel for the petitioner submits that in the first instance, while registering the case, L.W.1, father of deceased, did not state anything against the petitioner, but after elapse of two months, he lodged another report stating the deceased committed suicide by hanging herself due to the harassment made by the petitioner.

6. Admittedly, prosecution relied on suicide notes left by the deceased and the said suicide notes are also filed before this Court. In the said suicide notes, the deceased categorically stated that she does not have any problem with her husband or any of members of the family of her husband. She has also specifically stated that due to death of her brother, she became depressed and she does not want to continue her life. In all suicide notes, she has not

stated anything against the petitioner or any of the family members of the petitioner. In this type of cases, suicide notes of the deceased will be taken into consideration.

7. A perusal of suicide notes do not disclose anything against the petitioner and furthermore, on the date of commission of suicide, the petitioner is in Indonesia. Apart from that the delay in lodging another report by father of the deceased with regard to harassment made by the petitioner is also to be taken into consideration. Considering the said aspects and circumstances of the case, this Court is of the view that pendency of proceedings against the petitioner/accused in S.C.No.79 of 2010 on the file of Sessions Judge, Vizianagaram are abuse of process of law and the same are liable to be quashed.

8. Accordingly, the Criminal Petition is allowed setting aside the order, dated 11.03.2013, in Crl.R.P.No.33 of 2012 on the file of Sessions Judge, Vizianagaram and proceedings in S.C.No.79 of 2010 on the file of Assistant Sessions Judge, Vizianagaram, against the petitioner is quashed. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

JUSTICE RAJA ELANGO

27.08.2016
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Date: 27.08.2016

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