

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.11810 of 2016

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ORDER:

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The petitioner who is the sole accused in Crime No.125 of 2016 of Echoda Police Station, Adilabad District, filed the present application under Section 438 of the Code of the Criminal Procedure (Cr.P.C.), seeking release in the event of his arrest in connection with the above crime, registered for an offence punishable under Section 306 of IPC.

The case of the prosecution is as under:

The marriage between the accused and the deceased took place about 13 years prior to the date of the incident and they were blessed with two children. It is stated that since the date of marriage, the petitioner has been harassing the deceased physically and mentally doubting her chastity. On 15.07.2016 at about 01.00 p.m., the petitioner is alleged to have harassed the deceased and instigated her to commit suicide, which resulted in commission of suicide by the deceased by setting herself ablaze. Immediately, she was taken to the hospital. On questioning about the said act, the deceased is alleged to have stated that she committed suicide due to harassment by the petitioner, doubting her chastity. The deceased is said to have died in the hospital on 16.07.2016 at about 02.35 p.m. Hence, the present report came to be lodged by the informant.

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. It is urged that though the deceased is alleged to have died committing suicide on 15.07.2016, no report came to be lodged till 16.07.2016.

Learned public prosecutor opposed the application contending that in her dying declaration, the deceased categorically stated about the

harassment made by the petitioner and also the circumstance which lead to commission of suicide. In view of the above, he submits that the petitioner is not entitled for anticipatory bail.

As seen from the record, the incident took place on 15.07.2016 at about 01.00 p.m. It is to be noted that on 15.07.2016, the concerned JFCM received requisition from the hospital at about 03.30 p.m., to record statement of the patient (deceased). The patient was identified at burns ward with the help of duty doctor and the Magistrate started recording the dying declaration, which ended at about 04.15 p.m. A reading of the said dying declaration amply establish that unable to bear the harassment in the hands of the petitioner, who suspected her fidelity, the deceased is alleged to have committed suicide by pouring kerosene and setting herself ablaze.

Since the incident took place immediately after the harassment made by the accused; having regard to the manner in which death took place and since the statement of the deceased was recorded on the date of incident itself which reads that the petitioner is alleged to have scolded her stating that she is having illicit relationship and that he does not want to live with her and screamed at her stating to do whatever she wants and the said version of the deceased also gets corroborated from the statement of one Nagarada Shivaram, LW1, who got the same answer when the deceased was questioned while she was being taken to the hospital, the request of the petitioner is rejected. But, however, the petitioner, if so advised, shall surrender before the concerned Court and move an application for grant of bail before appropriate Court after giving prior notice to the Public Prosecutor, in which event the same shall be dealt with in accordance with law at the earliest.

Accordingly, the criminal petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

16.08.2016
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