

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6628 of 2017

ORDER:

1 This Criminal Petition is filed, by the petitioner under Section 438 Cr.P.C., seeking anticipatory bail in Cr.No.412 of 2017 on the file of the Station House Officer, Jagathgirigutta Police Station registered for the offences punishable under Section 306 of IPC.

2 The learned counsel for the petitioner submitted that even if the allegations made in the complaint are ex facie taken to be true and correct, no prima facie case is made out against the petitioner for the offence under Section 306 of IPC.

3 *Per contra*, the learned Additional Public Prosecutor submitted that the allegations made in the complaint ex facie constitute the offence alleged to have been committed by the petitioner.

4 A perusal of the record reveals that the petitioner and the wife of one Kanthi Satyanarayana (hereinafter referred to as 'the deceased') are brother and sister. It is the case of the prosecution that the petitioner and his sister paid advance money in order to purchase an extent of 60 yards without the consent and knowledge of the deceased. In that connection some disputes arose between the deceased and his wife. The wife of the deceased lodged a complaint against him and the police intervened and pacified the matter. It is the further case of the prosecution that on 07.06.2017 the petitioner beat the deceased due to which the deceased get humiliated and committed suicide. Basing on the complaint lodged by the sister of the deceased the above case was registered.

5 The petitioner filed CrI.M.P.No.2480 of 2017 on the file of the Court of the XV Additional District & Sessions Judge, Ranga Reddy at Kukatpally under Section 438 Cr.P.C. and the same was dismissed on 12.7.2017.

6 To substantiate the argument, the learned counsel for the petitioner has drawn the attention of this Court to the ratio laid down in **Pallem Denial Victor @ Victor Hanter vs. State of A.P.**¹. As per the principle enunciated in the case cited supra, establishment of the ingredients of Section 107 IPC is a condition precedent to convict a person under Section 306 of IPC. That case was decided under Section 482 Cr.P.C whereas, the present petition is filed under Section 438 Cr.P.C. While deciding the petition under Section 438 Cr.P.C. the Court has to consider whether the material placed before it prima facie constitute the offence alleged to have been committed by the accused.

7 A perusal of the record reveals that the petitioner along with his sister paid advance amount to purchase 60 yards of site without the consent and knowledge of the deceased. A perusal of the record further reveals that when the deceased was proceeding to the house from the Police Station, the petitioner beat the deceased in a public place due to which the deceased felt insulted and committed suicide on 07.06.2017. A perusal of the record further reveals the role played by the petitioner in commission of the alleged offence. Hence the decision relied on by the learned counsel for the petitioner is no way helpful to the case of the petitioner.

¹ 1997 (1) ALT (Cri.) (A.P.) 124 (D.B)

8 A perusal of the record further reveals that investigation is still in progress. As rightly pointed out by the learned Additional Public Prosecutor, if the petitioner is granted anticipatory bail, the possibility of the petitioner tampering with the prosecution evidence cannot be ruled out completely.

9 Taking into consideration the gravity of the offence alleged to have been committed by the petitioner, this court is of the considered view that this is not a fit case to grant anticipatory bail to the petitioners.

10 In the result, the petition is dismissed.

Date: August 29, 2017

Kvsn

T.SUNIL CHOWDARY, J

