

HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL PETITION No.7392 of 2011

ORDER:

This criminal petition is filed by the petitioner/accused, under Section 482 of Cr.P.C., seeking to quash the proceedings in FIR No.235 of 2011, on the file of Saroornagar Police Station, Ranga Reddy District.

2. Heard learned counsel for the petitioner and learned Public Prosecutor appearing for the 1st respondent. Perused the material available on record.

3. The contention of the petitioner/accused is that the 1st respondent without considering the statement of the deceased that she was eloped with one Rakesh, altered the provision of law from Section 174 Cr.P.C. to Sections 498-A and 306 IPC. It is further contended that the complaint of the 2nd respondent for the reasons assigned in the altered memo does not make out a *prima facie* case for the charges under Sections 498-A and 306 IPC.

4. A perusal of the record goes to suggest that on 06.05.2011, Rentaala Benjimen (2nd respondent), the brother of the deceased, made a complaint to the police alleging that on 20.04.2011, his sister along with her child came to their house due to the disputes with the petitioner. On 05.05.2011 in the afternoon, his sister's daughter Yeswani, aged about 5 years, was taken to Uppal by his sister's co-sister Varalakshmi. On the night of 05.05.2011, they went to sleep at about 12.00 hours. On 06.05.2011, at about 4.00 hours in the morning, his sister was not in the house. On 07.05.2011, R. Jacob, father of the deceased made a representation to the Inspector of Saroor Nagar Police Station alleging that due to differences between the

petitioner and the deceased, she went out of the house and on which, a missing case was registered in Saroor Nagar Police Station. Thereafter, on finding his daughter's daughter on 29.04.2011, they brought her home and thereafter, on 05.05.2011 in the afternoon, his sister's daughter Yasaswini, aged about 5 years, was taken to Uppal by his sister's co-sister Varalakshmi and she was beating her. On 06.05.2011, at about 4.00 hours in the morning, his daughter went out of the house. On the date of report, in Saroor Nagar Cheruvu (tank), the dead body of his daughter was found. Basing on which, a case was registered under Women Missing in Saroor Nagar Police Station.

5. As per the alteration memo of the Sub-Inspector of Police, Saroor Nagar Police Station, filed before the learned IX Metropolitan Magistrate, Cyberabad, the provision of law was altered from Section 174 Cr.P.C. to Sections 498-A and 306 IPC and registered as Crime No.235 of 2011. In the altered memo, there is a clear assertion that the deceased was having differences with her husband and she came to her parents house along with her daughter namely Yasaswini, aged about 5 years, on 05.05.2011 at night hours, her co-sister Smt. Varalakshmi came to the house of the complainant and took her sister's daughter to Uppal. At 12.00 midnight, they went into sleep and when the complainant woke up at 4.00 hours in the morning, the complainant found that his sister was missing at his house.

6. It is further stated in the memo that on 07.05.2011 at morning hours, the dead body of the missing sister was found in the Saroor Nagar Tank. The dead body was removed from the Saroor Nagar Tank and shifted to Osmania General Hospital Mortuary. Therefore, the section of law was altered from Women Missing to Section 174 of Cr.P.C. Inquest was conducted on the dead body in the presence of the

mediators and the opinion was awaited. The section of law was altered from Section 174 Cr.P.C. to Sections 498-A and 306 IPC and FIR No.235 of 2011 was registered, on which the same facts were narrated.

7. In the alleged statement of the deceased, dated 29.04.2011, she stated that on 27.04.2011 she went to her relative's house since she was feeling with tensions and with that problem, she went to her relative's house. When one Sathemma questioned the deceased on 29.04.2011, the deceased told that since she is not having peacefulness, she went to her relative's house. On 30.04.2011, there is another statement of Prashanthi wherein it is alleged that she do not want to live with her husband, the petitioner herein, why because by drinking he used to beat her and he used to pass urine in his clothes and due to this reason, she went away with one Rakesh on 27.04.2011 afternoon onwards. Thereafter, she stayed with her relatives for two days and later she went to her parents house. The statement of the petitioner, which is available on record also goes to suggest that since the cell phone of the deceased is in the house, getting suspicion on the same night, the petitioner informed her mother, brother and her family members about the same as previously one cell phone incident was happened. The above all statements made it clear that the marriage of the petitioner and the deceased was performed in the presence of their elders and the deceased died within a period of seven years of marriage. Since there were ill-feelings and differences between the petitioner and the deceased, it appears from their statements that they do not want to live together. It also appears from their statements that the petitioner used to beat her on suspicion. All the facts made out a *prima facie* case against the petitioner. There are no grounds showing any abuse of process of law. I do not find any reason to quash the proceedings in FIR No.235 of 2011.

8. In the result, the Criminal Petition is dismissed and the interim order, dated 24.08.2011, granted in Crl.P.M.P.No.7754 of 2011 stands vacated.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

N.BALAYOGI, J

Date: 16th October, 2017

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