

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION No.2218 OF 2017**

**ORDER:**

This criminal petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to grant pre-arrest bail to the petitioner/ A.3 apprehending her arrest in connection with Crime No.73 of 2016 of Nagalapuram Police Station, Chittoor District, registered for the offences punishable under Sections 304-B read with 34 of the Indian Penal Code, 1860 (for short 'I.P.C.').

The case of the prosecution, in brief, is that the *de facto* complainant by name Lakshmi w/o. Manaiah lodged a complaint with the SHO, Nagalapuram Police Station, alleging that she was blessed with four daughters and one son. She performed the marriage of her second daughter – Kalpana with A.1, who belongs to Beerakuppam Village, on 29.06.2016 and at the time of marriage, she presented Rs.4 lakhs cash along with 100 gms. of gold and household articles worth Rs.2 lakhs. After a week from the date of marriage, her daughter was subjected to harassment abusing by the petitioner and other accused and the said fact was informed to the *de facto* complainant and her son Muni Shekar. On 18.12.2016 when she went to Beerakuppam Village, to invite her daughter for Christmas festival, the husband and in-laws of her daughter refused to send her along with them and her daughter also informed that she is being subjected to harassment by her husband and in-laws, thereupon the *de facto* complainant left the Village at 5.00 a.m. on 19.12.2016. On the same day at about 1.30 p.m. she received a phone call from one Raviteja of Beerakuppam Village and asked her to come to Beerakuppam Village immediately.

- 2 -

She along with her husband and their relative Nelson went to Beerakuppam Village and found the dead body of her daughter - Kalpana in freezer box. On enquiry, she came to know that she died due to hanging with the help of chunni hanging to the fan inside the room. Thus, the deceased – Kalpana was subjected to cruelty which drove her to commit suicide. On the strength of the allegations the police registered the complaint and issued F.I.R.

The main contention of the counsel for the petitioner that the marriage of the deceased – Kalpana is not of her liking and she wanted to get rid of the marriage ties with the petitioner and the said fact was informed to the *de facto* complaint on more than one occasion, held a meeting and no purpose was served. Therefore, no offence was committed by the petitioner, and in the absence of material to show *prima facie* that she was subjected to cruelty soon before the death of Kalpana, she cannot be made liable criminally for the serious offence punishable under Section 304-B of I.P.C.

The Public Prosecutor for the State of Andhra Pradesh opposed the criminal petition on the ground that the death of Kalpana took place within seven years of her marriage and the presumption under Section 113-B of the Indian Evidence Act, 1872 would arise and it is a rebuttable presumption.

Undoubtedly, the marriage of the daughter of the defacto complainant – Kalpana with A.1 was performed on 29.06.2016, whereas the death of Kalpana took place within six months at the in laws house. In the absence of any other material, the presumption under Section 113-B of Indian Evidence Act is in favour of the prosecution that the

- 3 -

death might have taken place due to harassment. Of course, it is a rebuttable presumption. But till it is rebutted, the presumption is in favour of the prosecution. Therefore, it is difficult for me to conclude, at this stage, that the petitioner did commit no offence, to enable this court to exercise jurisdiction under Section 438 of Cr.P.C. to grant pre-arrest bail to the petitioner, in view of presumption under Section 113-B of Indian Evidence Act.

Learned counsel for the petitioner mainly contended that there is no specific allegation in the complaint that the daughter of the *de facto* complainant was subjected to cruelty soon before her death.

The First Information Report is only an information to the police to set the criminal law into motion about the occurrence of a cognizable offence and it need not contain each and every minute details and it is not an encyclopaedia of facts. Therefore, failure to mention minute details in the complaint is not fatal, and the petitioner is successfully avoiding her arrest in connection with the above crime, at this stage, it is not a ground to grant pre-arrest bail and the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

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**M.SATYANARAYANA MURTHY, J**

22.03.2017  
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