

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1404 OF 2017

ORDER:

The petitioners herein are arraigned as accused Nos.4 & 5 in Crime No.366 of 2016 of Kamareddy Town P.S., Nizamabad District.

2. They filed the present petition under Section 482 of the Criminal Procedure, 1973, requesting to quash the First Information Report in Crime No.366 of 2016 of Kamareddy Town P.S., for the offences punishable under Sections 304-B and 498-A of the Indian Penal Code.

3. Initially, the concerned police, who, registered the crime for the offences under Sections 306 and 498-A of I.P.C., subsequently altered the offence from Section 306 IPC to Section 304-B IPC by filing alteration memo dated 29.12.2016, while retaining the offence punishable under Section 498-A of I.P.C.

4. Heard Sri Y. Balaji, the learned counsel for the petitioners and the learned Additional Public Prosecutor for the State of Telangana.

5. It is the submission of the learned counsel for the petitioners that the sister-in-law and husband of sister-in-law, who are the petitioners herein, have not committed any offence; that when the accused No.1 was arrested on 22.12.2016 and produced before the learned Magistrate along with remand case diary it was found in the remand case diary that the police deleted the names of the petitioners

by recording that the offences were not against them; that the remand case diary would show that L.Ws.5 to 8 stated that the petitioners did not visit Das Nagar since the marriage of A1 and only his parents, who are A2 & A3, have harassed the deceased and abetted the commission of suicide; that surprisingly the police said to have recorded the statements on 29.12.2016 and sought alteration of section of law as afore indicated by stating that A2 to A5 are responsible for the suicide of deceased as having subjected her to physical and mental torture for additional dowry of Rs.4 lakhs for acquiring teacher's job for A1; that the petitioners who are the sister and brother-in-law of the 1st accused since marriage in the year 1998 have been residing at Banjara Hills, Hyderabad and they are in no way connected with the offence and they never visited the house of deceased or the house of the husband of the deceased; that the allegations are vague and far from truth; and the petitioner No.2 is a permanent resident of Hyderabad and born and brought up at Hyderabad.

6. The learned counsel has also drawn the attention to the provisions of Section 498-A and 304-B of I.P.C. and the gist of the statements of witnesses in the remand case diary dated 22.12.2016 and the alteration memo dated 29.12.2016 besides drawing the attention to the addresses of the petitioners by filing photostat copies of electoral voter identity cards showing the address as the residents of House No.8-2-682/32/143, Banjara Hills, Road No.12, Hyderabad.

7. Learned Additional Public Prosecutor for the State of Telangana would strongly oppose the request contending that the investigation so far conducted would reveal the complicity of the petitioners also and even for a moment the statement of L.Ws.5 to 8 are kept aside, still, there is evidence of other witnesses indicating instigation by the petitioners and, therefore, to request the reject of the petitioners.

8. The case diary submitted is perused. It appears the statement of witnesses for the first time were recorded on 19.12.2016 and 20.12.2016, but, however statements of relevant witnesses were again recorded on 29.12.2016. The said statements would show *prima facie* allegations against the petitioners in abetting the commission of suicide by the deceased. It is alleged to be dowry demand case and there appears to be demand for more than Rs.4 lakhs to secure teacher's job for accused No.1. The marriage of the petitioner and the deceased took place on 3.6.2013 and the death of the deceased took place on 19.12.2016, thus, within a period of seven years from the date of marriage. There are *prima facie* allegations even at this stage indicating the complicity of the petitioners in the commission of alleged offences.

9. It is no doubt true, that initially the offence punishable under Section 306 of IPC was clutched along with Section 498 of I.P.C., but it appears subsequently, on recording the statements, the investigating officer having realized that there was demand for payment of

additional dowry of Rs.4 lakhs, on account of which only, the deceased was driven away from the house of the husband and the commission of suicide by the deceased occurred within seven years from the date of marriage, has resorted to alteration of offence.

10. Turning to the remand case diary, initially, filed at the time when A1 was arrested and also produced before the Court for judicial remand, the investigating officer mentioning that the statements of L.Ws. 5 to 8 would not indicate the complicity of the petitioners and the petitioners' names have been deleted, but, basing on the statements recorded again on 29.12.2016, the investigating officer arrived at there are *prima facie* allegations as to the complicity of the petitioners in the commission of offences.

11. The question as to why the investigating officer again recorded the statements, though he recorded statements earlier on 19.12.2016 and 20.12.2016 are all the matters to be examined during trial when the witnesses are sought to be cross-examined, including the investigating officer and at this stage merely basing on the circumstances that, initially, the investigating officer arrived at an opinion that there is no case made out against A4 & A5 and again taking a different view having examined the witnesses once again would not be sufficient to quash the First Information Report against the petitioners and these circumstances can be examined during trial, including the residence of the petitioners.

12. Hence, the Criminal Petition is dismissed.

Consequently, miscellaneous petitions if any pending in the criminal petition shall stand closed.

A.SHANKAR NARAYANA

Dt.06.03.2017
gbs

