

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.6097 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings against the petitioners, who are accused 1 to 3 in S.C.No.81 of 2010 on the file of the Sessions Judge, Vijayawada, Krishna District.

2. Heard the counsel for the petitioners and the Public prosecutor appearing for the 2nd respondent. None appears for the 1st respondent in spite of notice.

3. The counsel for the petitioners, at the hearing, only insists upon the deletion of the charge, which was framed for the offence under Section 302 IPC.

4. The charges framed by the court below are also filed along with this petition. The charge sheet is filed only for the offence under Section 304-B IPC. Even the case of the complainant is that the deceased committed suicide and that she was found hanging to the ceiling fan and he does not anywhere express any suspicion that the deceased was murdered. There is absolutely no clue for the lower court to frame charge under Section 302 IPC and as to from where the lower court got the material to frame such charge is not understandable. The Public Prosecutor also did not submit that there was any material, which could have prompted the court below to frame a charge under Section 302 IPC. Even the statement of the witnesses also do not

anywhere spell that there was any suspicion that the death is a murder. The Post Mortem report also shows that the death is due to asphyxia caused by hanging.

5. Hence, in the above circumstances, this Court opines that the charge under Section 302 IPC framed against these petitioners cannot be sustained and the same is deleted.

6. With the above observations, the Criminal Petition is partly allowed quashing the proceedings in S.C.No.81 of 2010 on the file of the Sessions Judge, Vijayawada, Krishna District insofar as the offence under Section 302 IPC and the proceedings insofar as the other offences may go on. Interim stay granted by this court in CrI.P.M.P.No.6194 of 2011, dated 26.07.2011, shall stand vacated.

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

December 20, 2017
LMV

T. RAJANI, J