

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9210 OF 2017

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings in Crime No.123 of 2016 on the file of Shali Gouraram Police Station, Nalgonda District, for the offence punishable under Section 174 Cr.P.C.

Based on the report about death of one Mamindla Ramulu, the police started investigation, recorded statements of the second respondent-Mamindla Mahesh as L.W.1, Mamindla Yellamma as L.W.2, Mamindla Parvathamma as L.W.3 and others, examined the witnesses under Section 161 Cr.P.C and filed a memo before the Judicial First Class Magistrate at Nakrekal for alteration of section of law from Section 174 Cr.P.C to Section 306 IPC and obtained permission of the Court for such conversion.

The main ground urged before this Court is that, a Panchayat was held in front of the house of Sarpanch of the village and in the said panchayat, husband of the Sarpanch, the petitioner herein participated and he allegedly slapped the deceased-Mamindla Ramulu. Feeling ashamed for being slapped, Mamindla Ramulu committed suicide. But, the contention of the petitioner was that, he never slapped Mamindla Ramulu and never abetted to commit suicide to attract the offence punishable under Section 306 IPC. The statements of the witnesses recorded by the police on 07.08.2017, 08.08.2016 and 09.08.2016 disclosed that the petitioner being the husband of the Sarpanch of village,

participated in the panchayat held in front of the sarpanch house and he slapped the deceased Mamindla Ramulu and the said Mamindla Ramulu, on receipt of slap, felt ashamed, went to the well in the agricultural land and committed suicide. Thus, the incident of death occurred immediately after the incident of slapping Mamindla Ramulu by the petitioner, intervened by few hours. It appears from the material collected by the police that the cause of suicide was slapping Mamindla Ramulu by the husband of the sarpanch of the village i.e. the petitioner herein and having felt ashamed, Mamindla Ramulu committed suicide on account of such incident.

In view of proximity of time and as there was no other intervening circumstances which lead Mamindla Ramulu to commit suicide, it is difficult to accept the contention of the petitioner that he did not prompt Mamindla Ramulu to commit suicide. The proximate cause for commission of suicide by Mamindla Ramulu was slapping him by the petitioner. Apart from that, filing of memo for alteration of section after lapse of more than one year is fatal. The statements of witnesses were recorded by the police on 07.08.2017, 08.08.2016 and 09.08.2016 and a memo was filed on 08.08.2017. Therefore, there is delay of nearly one year in filing the memo for alteration of section of law in the penal code and for issuing F.I.R. But, that by itself is not a ground to quash the proceedings and that too, the statements recorded by the police are consistently pointing out that the petitioner slapped the deceased-Mamindla Ramulu in front of the house of the Sarpanch of the village, that would attract offence of 'abetment',

punishable under Section 306 IPC and the proximate cause for commission of suicide was the act of the petitioner slapping the deceased-Mamindla Ramulu in front of the house of the Sarpanch of the village.

Section 107 IPC deals with Abetment of a thing and according to it, a person abets the doing of a thing, who (i) instigates any person to do that thing; or (ii) Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or (iii) Intentionally aids, by any act or illegal omission, the doing of that thing; would amount to abetment.

Turning to the present case, the present incident of slapping Mamindla Ramulu in the panchayat held in front of the house of the Sarpancha of the village would fall within Clause (3) of Section 107 IPC *prima facie*. Therefore, the act of the petitioner which lead Mamindla Ramulu to commit suicide, having felt ashamed, is the proximate cause for commission of suicide. Therefore, I find *prima facie* material against this petitioner to proceed with the offence punishable under Section 306 IPC and the delay in filing for alteration of section of law is not a ground to quash the proceedings. Consequently, the criminal petition is liable to be dismissed, as it lacks merits.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:28.12.2017

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