

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.2053 OF 2017

ORDER:

This petition is filed under Section 438 of Criminal Procedure Code (for short "Cr.P.C.") by accused No.1, apprehending her arrest, in Crime No.837 of 2016 on the file of Patamata Police Station, Vijayawada, registered for the offence punishable under Section 306 of Indian Penal Code (for short "I.P.C.") to direct the Station House Officer, Patamata Police Station to release her on bail in the event of her arrest in connection with the above crime.

The case of the prosecution is that the complaint was lodged with the police by B.Vijiaya Bhaskar about the suspicious death of his wife alleging that the defacto complainant and his wife were lived happily for sometime, but for the last two days Adilakshmi, petitioner herein and her husband Pandu, who were residing in the adjacent portion of their house were fighting on the assumption that his wife Uma told Adi Lakshmi's husband that she is having an affair with one Police named China Pandu, on that Adilakshmi came to their house during the night of 25.11.2016 at about 07.00 p.m. and fought verbally with his wife. On account of the same his wife Uma suffered mental agony. On 26.11.2016 at about 11.30 a.m. Ramulamma saw that his wife hanging to the ceiling fan in the middle room of the house, on that his brother-in-law Parsha Ramgopal had broken the front door of the house and got removed the body of Uma, wife of complainant. Thus, the petitioner is responsible for commission of suicide by the wife of the defacto complainant.

The main contention of the learned counsel for the petitioner is that if any word is used in a fit of anger, the same would not amount to instigation and the verbal fight between the deceased the petitioner herein would not amount to abetment as defined under Section 107 of I.P.C, thereby the petitioner cannot be roped with such a serious offence and he placed reliance on a judgments rendered by the Apex Court in “**Ramesh Kumar v. State of Chhattisgarh**”¹ and “**Gangula Mohan Reddy v. State of Andhra Pradesh**”² in support of his contentions.

Learned Public Prosecutor for the State of Andhra Pradesh contended that the suicide note of deceased is sufficient to conclude that by the acts of the petitioner only, the deceased committed suicide, therefore it would fall within the definition of abetment as defined in Section 107 of I.P.C. The suicide note of the deceased itself is sufficient to conclude prima facie that the petitioner is responsible for the commission of suicide by the deceased and prayed for dismissal of the petition.

As seen from the suicide note, which is allegedly in the hand writing of the deceased, it is clear that on account of the acts of the petitioner the Uma suffered mental agony and committed suicide. It is also clear from the contents of the suicide note that Adilakshmi developed illicit contact with police uncle, but she did not disclose the same to the husband of Adilakshmi. However, the said Adilakshmi attributed illicit contact to Uma with Pandu Mama and due to unbearable harassment and humiliation she committed suicide.

¹ (2001) 9 SCC 618

² (2010) 1 SCC 750

The endeavour of the learned counsel for the petitioner is that such acts would not fall within the meaning of abetment as defined under Section 107 of I.P.C.

In “**Ramesh Kumar v. State of Chhattisgarh**” (referred supra) the Apex Court held that the instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

The same principle was also reiterated by the Apex Court in “**Gangula Mohan Reddy v. State of Andhra Pradesh**” (referred supra)

Taking advantage of the principle laid down in the above judgments, learned counsel for the petitioner contended that the acts allegedly committed by the petitioner i.e. verbal fighting with the deceased by Adilakshmi, petitioner herein, would not fall within the definition of abetment.

Section 107 of I.P.C. defines the word “abetment”, which is as follows:

“107. Abetment of a thing:- A person abets the doing of a thing, who-

Firstly:--Instigates any person to do that thing; or

Secondly:--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

Thirdly.--Intentionally aids, by any act or illegal omission, the doing of that thing.”

The acts of the petitioner would fall within clause (iii) of Section 107 of I.P.C. Therefore, by the act of the petitioner i.e. verbal fight with Uma, which drove her to commit suicide, would attract, *prima facie*, the offence punishable under Section 306 of I.P.C.

Therefore, the principle laid down in the above judgments though not in quarrel the same is not applicable to the present facts of the case for the simple reason that the acts of the petitioner would fall within clause (iii) of Section 107 of I.P.C. Therefore, I find *prima facie* material against the petitioner to conclude that the petitioner is responsible for the commission of suicide by the deceased. Hence, at this stage it is not possible for me to exercise discretion to grant pre-arrest bail to the petitioner. Consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

16.03.2017
Ksp