

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

**CRIMINAL PETITION NO.11246 OF 2017**

**ORDER:**

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in S.C.No.257 of 2017 pending on the file of the Principal District and Sessions Judge, Khammam, for the offence punishable under Section 306 read with 34 of Indian Penal Code (for short "I.P.C.").

A.Obulaiah is the defacto complainant, who is the father of the deceased A.Nageswar Rao. Defacto complainant lodged report with the police alleging that his son A.Nageswar Rao, aged 30 years, working as Railway Station Supervisor in Madhira Railway Station since 2009. Earlier he worked at Makodi Railway station and transferred to Madhira Railway Station on mutual transfer. He came to know that through his son over telephone that recently Station Supervisor of Jaggaiahpet Railway Station was expired, and in the process to fill up the above vacancy, the Senior Section Engineer discussed and transferred the Station Supervisor of Motamarri to Jaggaiahpet Railway Station and in his place, his son was transferred to Motamarri Railway Station. The Railway station at Motamarri is smaller than Madhira Railway Station and it is not possible for the deceased to lead life with two months baby and feeling insecure in his employment, committed suicide. On the strength of the same, police registered a case in Crime No.3 of 2010 of Madhira Town Police Station and issued F.I.R. for the offence punishable under Section 306 read with 34 of I.P.C. Inspector of police took up investigation and recorded statements of L.Ws.1 to 7, who are the father, brother, father-in-law and

co-employees of deceased and after collection of entire evidence, post-mortem report, filed charge sheet against the petitioners for the offence punishable under Section 306 read with 34 of I.P.C.

The petitioners herein are Senior Section Engineer and A.D.E.N. Railway Station, Madhira, Khammam District. They filed the present petition under Section 482 of Cr.P.C. to quash the proceedings on the ground that the allegations made either in the charge sheet or in the report lodged with the police do not disclose commission of offence punishable under Section 306 of I.P.C. and that the transfer from one place to other does not amount to instigating the deceased to commit suicide and prayed to quash the proceedings.

Notice was ordered by this Court and the same was sent to the correct address of the defacto complainant, but he did not receive the notice. Therefore, notice was returned to the learned counsel for the petitioners and the same was placed on record vide CRLPUSR No.7971 of 2017.

According to the allegations made in the charge sheet, the cause for commission of suicide by the deceased is transfer from Madhira to Motamarri due to the death of supervisor of Jaggaiahpet. Transfer from one place to the other is inevitable in the service of any employee it is an incidence of employment and the employees are bound to work wherever they are posted, but the deceased felt insecure in his employment as it is difficult for him to stay at Motamarri with two months baby, committed suicide.

Section 306 of I.P.C. deals with punishment for abetment of suicide. According to Section 306 of I.P.C. if any person commits suicide, whoever abets the commission of such suicide, shall be

punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment is defined under Section 107 of I.P.C., which reads thus:

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;

But here, as per the allegations made in the complaint the deceased was transferred from Madhira to Motamarri on account of vacancy arose due to death of Supervisor at Jaggaiahpet. Transfer of employee from one place to another place would not amount to abetment as defined under Section 107 of I.P.C. Therefore, commission of suicide on account of transfer from Madhira to Motamarri does not amount to instigation or abetment to commit suicide, thereby the proceeding against the petitioners is nothing but abuse of process of law and that apart, the petitioners are not the persons, who issued transfer orders, if any, as they are working as Senior Section Engineer, Madhira Railway Station and A.D.E.N. Madhira Railway Station, where the deceased worked prior to his alleged transfer, and by the time he committed suicide he did not report duty at Motamarri, before reporting duty he consumed pesticide and committed suicide.

Learned counsel for the petitioners submitted that in fact no transfer order was issued and he was not even relieved from Madhira Railway Station by the date of commission of suicide.

Taking into consideration of the said submission, I find that

it is a fit case to quash the proceedings since the power under Section 482 of Cr.P.C. can be exercised only to give effect to any order passed under the Code or to prevent abuse of process of Court or to meet the ends of justice.

In “***State of Haryana v. Bhajan Lal***<sup>1</sup>” the Apex Court considered in detail the powers of High Court under Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

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<sup>1</sup> 1992 Supp (1) SCC 335

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

According to guideline Nos. 1 to 3 formulated in “**State of Haryana v. Bhajan Lal**” (referred above), if the allegations made in the charge sheet or F.I.R., taken on their face value, would not constitute any offence or absurd or if the charge sheet is filed to wreck vengeance against the accused, abusing process of the Court, the Court may exercise the inherent jurisdiction under Section 482 of Cr.P.C.

Here, the allegations made in the charge sheet including statements recorded by the investigating agency during investigation under Section 161 of Cr.P.C., the alleged cause for commission of suicide was only transfer from Madhira to Motamarri and the same would not constitute abetment as defined under Section 107 of I.P.C. and commission of suicide on account of transfer would not attract the offence punishable under Section 306 of I.P.C. Therefore, the proceedings in S.C.No.257 of 2017 on

the file of Principal District and Sessions Judge, Khammam are liable to be quashed.

In the result, the petition is allowed and the proceedings in S.C.No.257 of 2017 on the file of Principal District and Sessions Judge, Khammam are hereby quashed. No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

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**JUSTICE M. SATYANARAYANA MURTHY**

27.12.2017  
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